16-601

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~604.~~ ~~428~~ 141

THE UNITED STATES, ON BEHALF OF DAVID D. PORTER AND OTHERS, OFFICERS AND MEN OF THE NORTH ATLANTIC SQUADRON, APPELLANTS,

vs.

THE REBEL VESSELS OF WAR SEABOARD, TEXAS, BEAUFORT, ET AL.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

FILED NOVEMBER 10, 1879.

secured is greater than that named in the consideration of the conveyance to the mortgagor, with interest, is no evidence that the difference is usury."

In many of the cases cited above, the agent who received a bonus or commission was confessedly the agent of the lender, but in the case at bar there is no doubt but the agent was the agent of the borrower. It is true he swears he did not understand the agreement to pay commissions (Exhibit B), but this is a claim about as frivolous and unfounded as the whole defense. He had been in the United States 33 years; a cook for many years at the Sherman House, a leading hotel in Chicago, and then a proprietor of an eating house in the same city; and had bought and sold real estate, and had been moderator of public (English) schools and administrator of estates; and he does not pretend that he did not understand the application, and that is all that the complainant had to do with, and upon the face of it he states the agency. So, *as to complainant*, the defendant *had* an agent, whether he understood so or not.

It may be urged that the commission is extortionate. We reply, no insanity is suggested. The court is not here to make a contract for the parties. The complainant has nothing to do with the question, and it is not a suit to recover commissions by the agent, nor to recover it back by defendant from his agent.

The learned Circuit Judge, in granting the decree in favor of complainant, simply followed the decisions of the Federal Courts throughout the 8th Circuit where this precise class of cases, in which these contracts for commission and applications for loans, in the very words of those in the case at bar, were involved, has been determined year after year, for nearly ten years, always in favor of the lender.

The apology to be offered for the meagreness and brevity of this argument, is the absolute certainty of the law involved in the case.

J. D. CAMPBELL,
Of Counsel.

BROWN & CAMPBELL,
Complainant's Solrs.

16-607

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~694.~~ ~~420~~ 141

THE UNITED STATES, ON BEHALF OF DAVID D. PORTER AND OTHERS, OFFICERS AND MEN OF THE NORTH ATLANTIC SQUADRON, APPELLANTS,

VS.

THE STEAM VESSELS OF WAR SEABOARD, TEXAS, BEAUFORT, ET AL.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

FILED NOVEMBER 10, 1879.

SUPREME COURT OF THE UNITED STATES.

No. 694.

THE UNITED STATES, ON BEHALF OF DAVID D. PORTER AND OTHERS, OFFICERS AND MEN OF THE NORTH ATLANTIC SQUADRON, APPELLANTS,

VS.

THE STEAM VESSELS OF WAR SEABOARD, TEXAS, BEAUFORT, ET AL.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

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1 **To the honorable the justices of the supreme court of the District of Columbia, in admiralty sitting:**

The libel of information of the United States on behalf of itself and of David D. Porter, admiral of the Navy of the United States, who prosecutes for himself and on behalf of the officers and men of the North Atlantic squadron of the United States Navy, as constituted from the eighth day of October, 1864, to the twenty-eighth day of April, 1865, which was under the command of said David D. Porter, now admiral of the Navy of the United States, and composed of the following-named ships of war, with their commanders' names, viz: Malvern, Sassacus, Monadnock, Eutaw, Caseo, Chippewa, Kansas, Atlanta, Delaware, Onondaga, Spuyten Duyvel, and of such of said ships and boats, or of such officers and crews of said ships or boats as are entitled to or
2 interested in any share of the subject-matter hereinafter described and set forth, alleges, declares, and propounds as follows, that is to say:

First. That, by orders of the President of the United States and the Secretary of the Navy, the said Rear-Admiral David D. Porter, with the naval force hereinafter named, ascended the James and York Rivers for the purpose of expelling the naval and military forces of the Confederate States from those waters and to assist in the recapture of the city of Richmond, Virginia, as hereinafter more particularly described.

Second. That heretofore, to wit, on the first day of April, 1865, the rebel authorities, known as and called "The Confederate States of America," by their armed forces, unlawfully and in defiance of the laws and authorities of the United States, took forcible military and naval possession of the city of Richmond, in the State of Virginia, the adjacent country, and the waters of James and York Rivers (both
3 being arms of the sea, wherein vessels of twenty tons burthen can and do navigate, and both being within the admiralty jurisdiction of the United States), with their batteries, defences, and other means of offensive and defensive warfare thereunto belonging or appertaining, for the purpose of opposing the passage of the ships of war, under the command of said Porter, up said rivers, which said vessels under command of said Porter were intended to attack and subjugate said city of Richmond and restore the same to the authorities of the United States.

Third. That at the date aforesaid said rebel authorities had placed, in support of the defenses of said city, and as a means for obstructing the passage of said rivers, many armed steam batteries, steam rams, ironclad ships of war, and armed steamers, among which were the following, to wit: The ironclad ram & ship of war Texas; the steam
4 vessel of war Seaboard; the steam vessel of war Beaufort; the ironclad vessel of war Fredericksburg; the steam vessel of war Torpedo; the ironclad vessel of war Richmond; the ironclad vessel of war Roanoke; the steam vessel of war Nancemond; the steam vessel of war Shrapnell; and the steam vessel of war Patrick Henry; and the steam vessel of war Hampton.

Fourth. That for the further obstructing of said rivers and preventing the passage of said fleet, said rebel authorities caused boats and other obstructions to be sunk in, and trees to be filled in and across said streams, which, until removed, effectually prevented said fleet from ascending said streams.

Fifth. That said fleet did remove said obstructions; did attack and subdue the naval forces of said enemy, the rebel authorities & forces

aforesaid, destroying many of his vessels and causing said enemy to destroy many other vessels to prevent them from falling into the
5 hands of the United States. The enemy's vessels that were destroyed by said fleet of the United States, and those that were destroyed by the enemy (which belonged to his force), in said engagement, to prevent them from falling into the hands of the forces of the United States, were the following, viz:

The steam vessel of war	Seaboard.
" " " " "	Fredricksburg.
" " " " "	Torpedo.
" iron-clad " " "	Richmond.
" " " " "	Roanoke.
" steamer	Nancemond.
" "	Shropnell.
" "	Patrick Henry.
" steam " " "	Hampton.

That said enemy was hard pressed by the United States forces, being himself disabled, and his vessels being disabled or in peril of capture, some of which, from the necessities of the engagement, were destroyed.

Sixth. And libellant further shows, alleges, declares, and propounds unto your honors that by force of the act of Congress approved
6 June 30, 1864, entitled "An act to regulate prize proceedings and the distribution of prize money, and for other purposes," that where the force of the enemy is in excess of that of the United States there shall be paid a bounty of two hundred (200) dollars a head for each man on the enemy's vessels at the commencement of the engagement; that in this engagement the enemy's vessels were of superior force to those of the United States, and libellant claims and prays judgment accordingly, and that they may be allowed two hundred (200) dollars per head for each and every man on the enemy's vessels at the commencement of said engagement; and that in estimating the numerical strength of the enemy the court will take into consideration and adjudge that all persons engaged on the land, as well as those on the water, in resisting the United States naval forces in that engagement may be held to have been on board the enemy's vessels, i. e., engaged in that resistance, and treated as adjuncts to those vessels in that engage-
7 ment, as they formed part of the force opposed to the United States forces.

Seventh. That said fleet of the enemy, aided by the guns of the forts and the obstructions in said rivers, was much superior in force and power of defense to the vessels of said fleet belonging to the United States, and engaged at the time aforesaid in ascending said rivers and driving away said enemy, under the command of said Porter, as aforesaid.

Eighth. That inasmuch as it will be difficult and in some instances impossible, by reason of the lapse of time and other causes, to show the number of men that were in and about the enemy's vessels when the engagement commenced, libellant prays that such force may be estimated according to the complement of men allowed to vessels of the same capacity in the Navy of the United States.

Wherefore libellant prays that a monition may issue commanding all persons to appear, at a time and place certain, to show cause, if any they have, why the prayers of libellant may not be granted, and
8 that notice thereof shall be given in such form and manner as the court may order.

Libellant also prays that all official reports, acts, and doings, of said rebel authorities, relative to the subject matter hereof, be received and taken as evidence of the facts hereby & herein shown, claimed, and set forth; and that all the official reports, letters, dispatches, and other documents made to or held by the Government of the United States in this behalf, may be received and taken as evidence of the facts hereby & herein shown, claimed, and set forth.

Wherefore libellant prays that, upon the facts herein stated being duly proved and made to appear, a bounty of two hundred (200) dollars may be allowed said officers and sailors for each and every man on the enemy's vessels when said engagement commenced.

Libellant also prays that process may issue especially to the Secretary of the Navy of the United States, notifying of the commencement of the proceedings.

GEO. P. FISHER,
Att'y U. S. for D. C.
R. M. CORWINE & SON,
Special Counsel for Captors.

Filed June 24, 1874.

9 In the supreme court of the District of Columbia.

THE UNITED STATES
vs.
THE STEAM VESSEL OF WAR SEABOARD
et al.

On reading the libel heretofore filed in this case, the court orders that process issue as prayed, and appoints Wednesday the 2d day of September, 1874, and the City Hall in the city of Washington, in the District of Columbia, as the time and place of the trial thereof; and also orders that notice of said time and place of trial and of the substance of the libel be given by publication thereof in the Law Reporter and the Daily Morning Chronicle, newspaper published in Washington City, and also by posting the same at the court-house door, the said publication to be made once a month until the day of trial.

It is also ordered that the libellants may proceed to take testimony
forthwith, by leaving notice of time and place in the clerk's office
10 at least three days previous to the day of commencing the taking
thereof, within three days after this notice shall have been published for the space of ten days.

D. C. HUMPHREYS,
Justice.

Filed June 24, 1874.

11 In the supreme court of the District of Columbia. The 24 day of June, 1874. In admiralty.

UNITED STATES, BEHALF OF OFFICERS & men of North Atlantic Squadron, libellant,
vs.
THE STEAM VESSEL OF WAR SEABOARD and ten others, defendants.
No. 268.

The President of the United States, to the United States marshal for said District, greeting:

You are hereby commanded to warn the defendant in the above-entitled cause to appear before the district court of the United States for the

District of Columbia on the 2d day of Sept., 1874, at 11 o'clock in the forenoon of that day, if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, to answer the libel in said cause. And if he cannot be found, attach defendant's goods and chattels to the amount sued for, to wit, $, and hold the same subject to the order of the court.

12 Or, if such property cannot be found, attach the defendant's credits and effects to said amount, in whosesoever hands the same may be found, and warn the person or persons in whose hands you find such credits and effects to appear before said court on the first day of jurisdiction after such attachment, by o'clock noon of said day, then and there to answer, upon oath or affirmation, as to the debts, credits, or effects of the defendant in his hands, and to such interrogatories touching the same as may be propounded by the libellant. And have then there this writ so indorsed as to show how you have executed the same.

R. J. MEIGS, *Clerk*,
By R. J. MEIGS, JR.,
Ass't Clerk.

[SEAL.]

Witness:
D. K. CARTER,
Chief Justice of said Court.

13 Supreme court of the District of Columbia, holding a U. S. district court for the said district.

UNITED STATES, BEHALF OF THE OFFICERS and men of the North Atlantic Squadron,
vs.
THE REBEL STEAM VESSELS OF WAR SEABOARD, Texas, Beaufort, Fredericksburg, Torpedo, Richmond, Roanoke, Nancemond, Shropnell, Patrick Henry and Hampton.
} No. 268. Dis't c't docket.

The rebel steam vessel of war Seaboard, the iron-clad ram & ship of war Texas, the steam vessel of war Beaufort, the iron clad vessel of war Torpedo, the iron-clad vessel of war Richmond, the iron-clad vessel of war Roanoke, the steam vessel of war Nancemond, the steam vessel of war Shropnell, the steam vessel of war Patrick Henry, and the steam vessel of war Hampton, having been, on or about the day of April, 1865, attacked, sunk, or destroyed in and upon the waters of the James and York Rivers, about the defence of Richmond, Va.,

14 by the vessels of war of the United States comprising the North Atlantic Squadron, commanded by Admiral David D. Porter; and the *the* process of the said court having been ordered to issue in pursuance of act of Congress approved June 30, 1864, in such case's made and provided, as prayed in the libel herein filed: You are, therefore, hereby commanded, by advertisement in the , and by posting a notification at the court house door of this court, and thereby give at least fourteen days' notice of the fact above recited, and that the court has appointed the first Monday of October, 1874, and the court-room aforesaid as the time and place of trial of said cause, when & where all persons claiming an interest in the bounty under said act of Congress must appear and make their allegations in that behalf; and having so done, make return of this writ unto the clerk's office of said court, so indorsed as to show how you have executed the same.

Witness D. K. Carter, chief justice.

R. J. MEIGS, *Clerk*.

15 Supreme court of the District of Columbia.

The United States, on behalf of officers & men of North Atlantic Squadron,
versus
The Steam Vessel of War Seaboard & ten others.
No. 268. In admiralty sitting.

The United States, on behalf of the officers & men of North Atlantic Squadron,
versus
The Iron clad Ram and Ship of War Texas and ten others.
No. 269. do.

The United States, on behalf of the officers & men of the United States naval force on the York and Pamunkey Rivers,
versus
The Steam Vessel of War Logan and others.
No. 270. do.

It is hereby stipulated that notice may be waived, and the deposition of Admiral D. D. Porter may be taken at his office in the city 16 of Washington, D. C., on Thursday, the ninth day of July, A. D. 1874, at an hour to be agreed upon, and before any United States commissioner, for use in the trial and hearing of the above-entitled causes of action, or either of them, and the same shall have the same weight and effect as if taken under & pursuant with a regular notice.

Washington, D. C., July 2, 1874.

GEO. P. FISHER.
U. S. Att'y, D. C.
R. M. CORWINE & SON,
Proctors for Libellants and Captors.

17 In the supreme court of the District of Columbia.

The United States, on behalf of officers & men of North Atlantic Squadron,
vs.
The Steam Vessel of War Seaboard and ten others.
No. 268. Admiralty.

Same
vs.
The Iron-clad Ram and Ship of War Texas and ten others.
No. 269. Admiralty.

The United States, on behalf of the officers & men of the U. S. naval force on the York & Pamunkey Rivers,
vs.
The Steam Vessel of War Logan and others.
No. 270. "

On the ninth day of July, A. D. 1874, pursuant to the annexed notice, Admiral David D. Porter appeared before me, Andrew C. Bradley, a United States commissioner, duly appointed by the supreme court of the

District of Columbia, at his office in the city of Washington, in said District, to testify on the part and behalf of the libellants in the above-entitled cause.

18 And the said DAVID D. PORTER, being duly sworn, deposes and says, in answer to interrogatories propounded by Mr. Corwine, as follows:

Q. 1. What is your name, age, residence, and occupation?

Ans. 1. My name is David D. Porter; sixty-one years of age; residence, Washington City; and my occupation, admiral of the United States Navy.

Q. 2. Were you in the Navy of the United States in the spring of 1865; and, if yea, what was your rank and in what particular service, if any, were you engaged at that time?

Ans. 3. I was in the Navy as a rear admiral, commanding the North Atlantic Squadron, engaged in blockading the enemy's harbors, including Richmond, on the James and York Rivers.

Q. 3. State what knowledge you have of the naval engagement on the James and York Rivers in April, 1865, which resulted in the capture of Richmond, Virginia, giving the number of vessels so engaged on
19 the part of the United States, and if you are acquainted or familiar with the numerical and physical naval force of the United States so engaged, please give the number of officers and men composing it. State, if you can, also the names of the vessels that were sunk or otherwise destroyed by the naval force under your command at that time and as the necessary result of your attack.

Ans. 3. On the 2d of April, 1865, I sent an order to the officer commanding the naval forces lying above Dutch Gap to commence removing the obstructions and for every vessel to open fire with shot and shell on all the rebel forts within range, and in direction of the rebel naval force lying in James River, and for the vessels to push on through the obstructions as fast as they were carried away, sending boats ahead, and taking every precaution to remove torpedoes, of which there were large
20 numbers in the river planted by the rebels. A short time after the vessels commenced firing rapidly the rebels commenced blowing up their vessels and setting fire to others. We pushed up the river early next morning in time to save the Texas and Beaufort, which were captured, the rest having been destroyed to prevent their falling into our hands. The following is a list of rebel vessel' and the number of men on board:

Richmond,	ironclad	180 men.
Roanoke,	" "	" "
Virginia,	" "	150 "
Fredericksburg,	" "	180 "
Shrapnel,	steamer	50 "
Nansemond,	"	140 "
Hampton,	"	180 "
Torpedo,	"	40 "
Seaboard,	"	12 "
Patrick Henry,	"	150 "
Ironclad Texas		180 "
Steamer Beaufort		60 "

The following is a list of the naval vessels belonging to the Union forces which took part in that engagement. Their crews amounted
21 to a thousand men: Malvern, flag-ship; Monadnock, Casco, Kansas, Deleware, Spuyten Duyvel, Pequot, Sassacus, Eutaw, Chippewa, Atlanta, Onondago, Monticello.

Q. 4. State, if you can, the value of the vessels Texas and Beaufort which were captured by your command.

Ans. 4. The Texas was worth three hundred thousand dollars; the machinery was worth three hundred thousand dollars, and the lumber on board of her one hundred and fifty thousand dollars; and the steamer Beaufort, sixty thousand dollars. I know this from my knowledge of the value of such vessels and what it costs to build them, and what their machinery costs, and the lumber was estimated at by the Navy Department. The vessel could not actually have been built for the amount that I have stated their value.

Q. 5. Please state what disposition was made of the Texas and Beaufort, and the machinery & lumber you have spoken of.

22 Ans. 5. All taken into the employ and use of the United S[illegible]es Government.

Q. 6. What other property was taken or captured in that engagement by you and your command, besides these vessels?

Ans. 6. A large quantity of ammunition and shells, cables, anchors, large quantity of lumber, all of which was appropriated by the Navy for the use of the government.

Q. 7. State if there was an appraisement of this lumber by the government, and, if so, what this appraisement amounted to.

Ans. 7. There was an appraisement, and it amounted to about one hundred and fifty thousand dollars.

Q. 8. Were the James and York Rivers arms of the sea, and navigable for ships of twenty tons burthen?

Ans. 8. They were.

Q. 9. In the engagement referred to, was the force of the enemy inferior, equal, or superior to the force under your command?

23 Ans. 9. Considering the large force of forts with which it was backed, and the torpedoes with which the river was lined, and the number of ironclads they had, the force was much superior to ours. The enemy had a large number of officers and men engaged.

Q. 10. Was the river James barricaded to prevent the enemy's vessels getting down to attack the Union vessels there, and what was the nature of the barricade.

Ans. 10. It was; the nature of the barricade was sunken vessels filled with stone.

Q. 11 What Union vessels were stationed near the barricade to prevent the Confederates from removing it.

Ans. 11. The vessel before mentioned.

Q. 12. At what particular point in the engagement were the Confederate vessels destroyed, and can you give the names of them?

Ans. 12. The vessels heretofore referred to, except the Texas and Beaufort. They were destroyed immediately after we commenced firing.

Q. 13. What description of vessels were the Confederate ironclads that took part in this engagement.

24 Ans. 13. They were of the most powerful description, and proved to be impervious to our heaviest shot. The Onondago fired two fifteen inch shells into one of them a short time previous, and at a very short distance; neither shell went through the vessel, thus showing their great power of resistance.

Q. 14. Did these ironclads ever come down the river to attack your fleet; and, if so, with what result?

Ans. 11. They did, and created a great deal of confusion in the fleet.

Q. 15. At about what time in the engagement were the enemy's vessels blown up?

Ans. 15. They commenced blowing them up about a half hour after our fire opened.

Q. 16. Were torpedoes planted in the James River, and what steps did you take to remove them?

Ans. 16. They were planted in great numbers, and I had them taken up by boats.

Q. 17. Do you know anything further of importance to either party to these causes; and, if so, will you please state the same fully and particularly?

25 Ans. 17. There is nothing else of consequence that I know, except that these matters, in justice to the captors, ought to have been settled long ago. Great injustice has been done to the captors by withholding their rights for so long.

DAVID D. PORTER,
Admiral.

26 I hereby certify that the foregoing deposition was taken and reduced to writing by me, in the presence, and from the statement of the witness, the said Admiral David D. Porter, in reply to the questions propounded by Quinton Corwine, esq., proctor for libellants, who was attending at the time and place named in the caption thereof, the witness having been first by me cautioned and sworn to tell the truth, the whole truth, and nothing but the truth, touching the matters in issue in said causes; and the said deposition, after having been read over to said witness, was signed by him in my presence. And I further certify that I am not of counsel for any party interested in the events of said suits, nor in any wise interested therein.

[SEAL.] A. C. BRADLEY,
U. S. Commissioner.

Filed Oct. 9, 1874.

27 In the supreme court of the District of Columbia.

THE UNITED STATES ON BEHALF OF THE OFFICERS & men of the North Atlantic Squadron
versus
THE STEAM VESSEL OF WAR SEABOARD AND ten others.
} No. 268. Admiralty docket.

THE UNITED STATES ON BEHALF OF THE OFFICERS & men of the North Atlantic Squadron
versus
THE IRONCLAD RAM & SHIP OF WAR TEXAS and ten others.
} No. 269. Admiralty docket.

THE UNITED STATES ON BEHALF OF THE OFFICERS & men of the United States naval force on the York & Pamunkey Rivers
versus
THE STEAM VESSEL OF WAR LOGAN & OTHERS.
} No. 270. Admiralty docket.

Notice is hereby given to all whom it may concern, that the deposition of H. H. Gorringe, a lieutenant-commander in the Navy of the United States, will be taken on Wednesday, the 29th day of July, A. D.

1874, at 10 a. m., at the law-office of R. M. Corwine & Son, 924 Scott square, in the city of Washington, D. C., on behalf of libellants & for use in the trial or hearing of the above entitled cause.

Washington, D. C., July 23, 1874.

R. M. CORWINE & SON,
Proctors for Libellants.

Service of copy of above notice accepted.

GEO. P. FISHER,
U. S. Att'y, D. C.

28 In the supreme court of the District of Columbia.

THE UNITED STATES ON BEHALF OF THE OFFICERS & men of the North Atlantic Squadron
vs.
THE STEAM VESSEL OF WAR SEABOARD & ten others.
} No. 268. Admiralty.

SAME
vs.
THE IRONCLAD RAM & SHIP OF WAR TEXAS and ten others.
} No. 269.

THE UNITED STATES ON BEHALF OF THE OFFICERS & men of the United States naval force on the York & Pamunkey Rivers
vs.
THE STEAM VESSEL OF WAR LOGAN & OTHERS.
} No. 270.

On the 29th day of July, A. D. 1874, at ten o'clock a. m., pursuant to the annexed notice, Henry H. Gorringe appeared before me, Andrew C. Bradley, a United States commissioner duly appointed by the supreme court of the District of Columbia, at the office of R. M. Corwine & Son, No. 924 Scott square, in the city of Washington, in said District, to testify on the part and behalf of the libellants in the above-entitled causes.

29 JULY 29, 1874.

Deposition of Henry H. Gorringe.

HENRY H. GORRINGE, being duly sworn, deposes and says, in answer to interrogatories propounded by Mr. Corwine, as follows:

Q. 1. What is your name, age, residence, and occupation?

Ans. 1. Henry H. Gorringe, age thirty-three, and I am a' officer in the Navy of the United States, a lieutenant-commander.

Q. 2. Were you in the Navy of the United States in the spring of 1865; and, if yea, what was your rank, and in what particular service, if any, were you engaged at that time?

30 Ans. 2. I was a volunteer lieutenant in the Navy of the United States, in command of the U. S. vessel of war Monticello, one of the fleet operating against Richmond at that time.

Q. 3. State what knowledge you have of the naval engagement on the James & York Rivers in April, 1865, which resulted in the capture of Richmond, Virginia.

Ans. 3. I was laying off City Point near the flag-ship, on or about April 1st, when Admiral Porter made signal for me to come on board, and ordered me to proceed to the obstructions in the river, which had been placed there by the rebels, and order the senior officer up there to remove the obstructions and torpedoes so that the fleet could pass up and attack the enemy, in the mean time opening fire on their vessels and the forts adjacent. He also ordered me to place my vessel near the obstructions to assist in removing them. We worked all one day and night with boats, and the Monticello fighting the pivot gun all the time, and by the next morning a channel was cleared through the obstructions. In the mean time the enemy, finding out what we were
31 doing, commenced blowing up their vessels, and had destroyed all but two, the Texas and Beaufort, before we could get to them. The Texas and Beaufort were captured by our fleet, together with a great quantity of machinery and lumber. These obstructions referred to were composed of sunken vessels loaded with stone, piles, and torpedoes. The rebel vessels blown up were the Richmond, Roanoke, Virginia, and Fredericksburg, iron-clads, and the Shropnell, Nansemond, Seaboard, Torpedo, Patrick Henry, Hampton, and there may have been others. These vessels were heavily armed and manned, four of them were as powerful iron-clads as had ever been built on this continent up to that time, and I should estimate the number of officers & men on board of the rebel fleet at two thousand. These vessels were backed by a line of powerful fortifications, which fortifications were manned and armed. They were also protected by a system of submarine mines, and the obstructions before mentioned. There can be no doubt that
32 the force of the enemy against which we had to contend was much more powerful, in point of numbers and defensive power, than the Union fleet.

Q. 4. Did the Army or land forces of the United States render the naval fleet of the United States any assistance in this engagement, or was this wholly and strictly a naval engagement?

Ans. 4. No part of the Army of the United States rendered the Navy any assistance whatever in this engagement, and the attack on the rebel fleet and forts was entirely by the Navy. The fleet operating near the obstructions were not at that time in communication with the Army to the best of my knowledge and belief.

Q. 5. At what particular point in the engagement, or about what time, were the rebel vessels you have spoken of destroyed?

Ans. 5. Very soon after our fleet opened fire.

Q. 6. If you have any knowledge of such things, what value would you place upon the vessels Texas and Beaufort and the machinery
33 and lumber captured by the fleet in that engagement?

Ans. 6. From my knowledge what it has cost the U. S. Government to build similar vessels I should estimate the value of the Texas, including her machinery, to be about five hundred thousand dollars, and of the lumber captured about one hundred and twenty-five thousand dollars. The Beaufort, in my opinion, was worth at least one hundred thousand dollars. I examined them at the time of their capture, and formed my ideas from my recollection of that examination. All of the articles captured including the vessels, were taken possession of by the United States Government, and the lumber was shipped to the Norfolk navy-yard.

Q. 7. Were the James and York rivers arms of the sea, and navigable for ships of twenty tons burthen?

Ans. 7. They are arms of the sea, and navigable for ships of twenty tons burthen and upwards.

Q. 3. What number of men were on the Union vessels in that
34 engagement, and what number of men were engaged on the side
of the enemy, and was the force of the enemy in that engagement superior, equal to, or inferior to that of the United States?

Ans. 8. I should estimate the number of men on board of the Union vessels engaged at seven hundred on board of the rebel fleet between fifteen hundred and two thousand, and in the fortifications, by which the rebel fleet was supported, there could not have been less than five thousand men. The force of the enemy engaged in this affair was vastly superior to that of the United States.

Q. 9. Do you know anything further in relation to the matters in controversy, of interest to either parties to these matters; and, if so, will you please state it fully and particularly?

Ans. 9. So firmly was I impressed at the time of the destruction of these vessels, and the capture of the vessels and property, that we
would receive prize-money, that I had made out and verified
35 myself a prize-list, which was forwarded to the Navy Department,
where it is now on file.

HENRY H. GORRINGE.

I hereby certify that the foregoing deposition was taken and reduced to writing by me, in the presence and from the statements of the witness, the said Henry H. Gorringe, in reply to questions propounded by Quinton Corwine, esq., proctor for libellants, who was attending, at the time and place named in the caption thereof, the witness having been first by me cautioned and sworn to tell the truth, the whole truth, and nothing but the truth touching the matters in issue in said causes, and the said deposition, after having been read over to said witness, was by him signed in my presence.

And I further certify that I am not of counsel for any of the parties interested in the event of said suits, nor in anywise interested therein.

[SEAL.]

A. C. BRADLEY,
U. S. Commissioner.

Filed Oc. 9, 1874.

36 In the United States supreme court of the District of Columbia.

THE UNITED STATES ON BEHALF OF THE OFFICERS & men of the North Atlantic squadron *versus* THE STEAM VESSEL OF WAR SEABOARD & TEN others.	No. 368. Admiralty docket.
THE UNITED STATES ON BEHALF OF THE OFFICERS & men of the North Atlantic squadron *versus* THE IRON CLAD RAM & SHIP OF WAR TEXAS and ten others.	No. 269.
THE UNITED STATES ON BEHALF OF THE OFFICERS & men of the United States naval force on the York and Pamunkey Rivers *versus* THE STEAM VESSEL OF WAR LOGAN & TEN others.	No. 270.

It is stipulated and agreed that the testimony of Capt. H. C. Blake and others may be taken before competent authority in the city of New

York, on behalf of claimants or libellants in the above-entitled cases, any time between the 24th day of August, 1874, and the 1st day of Sept., 1874, and the same may be read on the hearing of either of the above-entitled causes so far as it is relevant & competent.

Washington, D. C., August 22, '74.

R. M. CORWINE & SON,
Counsel for Libellants, &c.
GEO. P. FISHER,
U. S. Att'y, D. C.

37 In the United States supreme court of the District of Columbia.

THE UNITED STATES ON BEHALF OF THE officers and men of the North Atlantic Squadron
vs.
THE STEAM-VESSEL-OF-WAR SEABOARD & TEN others.

THE UNITED STATES ON BEHALF OF THE officers & men of the North Atlantic Squadron
vs.
THE IRON-CLAD RAM & SHIP-OF-WAR TEXAS & ten others.

THE UNITED STATES ON BEHALF OF THE officers & men of the U. S. naval force on the York & Pamankey Rivers
vs.
THE STEAM-VESSEL-OF-WAR LOGAN & TEN others.

Testimony taken on the behalf of libellants, pursuant to a written stipulation, & hereto annexed.

HOMER C. BLAKE, being called as a witness on the behalf of libellants, deposes and says:

Ques. 1. What is your name, age, residence, and occuption?

A. My name is Homer C. Blake; I reside in the city of New 38 York; my occupation is captain in the Navy of the United States; my age is 51 years.

Ques. 2. Were you in the Navy of the United States in the spring of 1865; and, if yea, what was your rank and in what particular service were you engaged at that time, if any?

A. I was holding the rank of lieut.-commander at that time. I was stationed in the James River, commanding the United States iron-clad Onondaga and the naval picket line. This line joined the armies of the James & Potomac.

Ques. 3. State what knowledge you have of the naval engagements on the James and York rivers in April, 1865, which resulted in the capture of Richmond, giving the number of vessels engaged on the part of the United States as near as you can, and if you are acquainted and familiar with the numerical or physical naval force of the United States so engaged, please give the number of officers and men com- 39 prising it; state, if you can, also the names of the vessels belonging to the Confederate force that were sunk or otherwise destroyed as the result of the attack of the United States naval force at that time, being as explicit as possible.

A. On or about the 2d day of April, 1865, an order was received from Rear-Admiral David D. Porter, commanding the North Atlantic Squadron, to mass all the available naval vessels for an attack on the Confederate vessels of war and the forts protecting them. In obedience to this order, the following vessels were ranged in line of battle:

The United States ship-of-war Melvene.
“ “ “ “ “ “ Monadnock.
“ “ “ “ “ “ Casco.
“ “ “ “ “ “ Kansas.
“ “ “ “ “ “ Delaware.
“ “ “ “ “ “ Spuytenduyvel.
“ “ “ “ “ “ Pequot.
“ “ “ “ “ “ Sassacus.
“ “ “ “ “ “ Eutaw.
“ “ “ “ “ “ Chippewa.
40 The United States ship-of-war Atlanta.
“ “ “ “ “ “ Onondaga.
“ “ “ “ “ “ Monticello.

At the same time orders were given to organize and equip boat expedition for taking up torpedoes and clearing the river of obstructions, which consisted of one bark, a number of schooners and canal-boats filled with heavy material and sunk. The channels were also obstructed and made impassable by hundreds of torpedoes. At about 11 o'clock p. m. of the 2d of April the signal was made to open fire upon the rebel forces; which was done.

The engagement became general. About half an hour after the commencement of the engagement I heard the first of a series of heavy explosions, which I afterwards ascertained was the explosion of the magazine of the rebel iron-clads which they blew up to prevent their cap-
ture by our forces. As soon as the obstructions were removed
41 which were placed a short distance above Dutch Gap, such ves-
sels of the fleet as were ordered pushed through and up the river for the purpose of engaging and capturing the enemy's vessels. We succeeded in capturing two—the Beaufort and Texas; the others having, as I said before, been either sunk or destroyed, which were:

Iron clad Richmond.
“ Roanoke.
“ Virginia.
“ Fredericksburg.
The steamer Shropnell.
“ Nancemond.
“ Hampton.
“ Torpedo.
“ Patrick Henry.
“ Seaboard.

I have no recollection as to the number of men. I cannot even approximate to them.

Ques. 4. Please state if you know what disposition was made by the United States Government of the captured vessels the Texas and
Beaufort, and in your judgment was *was* your value of each ?
42 A. The Texas and Beaufort were both taken into the employment
of the Government of the United States. I put the value of the Texas at $300,000. She could not have been built for that sum. She was constructed for a first-class iron-clad and ram similar to the Ten-

nessee, which was captured in Mobile Bay. The Beaufort I value at $60,000. I know that there was a large amount of machinery, anchors, chains, naval stores, such as ammunition, &c., captured at that time by the Union forces and used by the United States Government.

Ques. 5. Was this purely a naval engagement and was the destruction of the rebel vessels referred to and those that were captured spoken of, the result of the attack of the United States fleet?

A. It was a naval engagement, the result of which was the destruction of the enemy's forts, iron clads, the capture of the Texas, Beaufort, and the City of Richmond.

43 Ques. 6. Was the force of the enemy, composed as it was, superior, inferior, or equal to that of the United States?

A. Taken into consideration that their fleet was defended by forts and torpedoes as before mentioned, it was infinitely superior.

Ques. 7. Are the rivers James and York arms of the sea and navigable for ships of 20 tons burthen and upward?

A. They are.

Ques. 8. Do you know anything further in relation to the matters in controversy in these suits which would be of interest to either party? If so, please state it.

A. I know of nothing farther which would be of interest or material
to either party except that the persons engaged are justly entitled to
compensation for the property of the enemy captured and de-
44 stroyed. It would be only a slight compensation for the exposure
of the officers and men during the year they were before the city
of Richmond.

HOMER C. BLAKE,
Captain, U. S. Navy.

Subscribed & sworn to before me the 29th August, 1874.

R. E. STILLWELL,
U. S. Com'r for the Southern District of New York.

I, R. E. Stillwell, U. S. Com'r for the southern district of New York do hereby certify that on the 29th day of August, 1874, the within named Homer C. Blake personally appeared before me and after being duly and publicly sworn in the then case hereto annexed pursuant to the within stipulations was examined on the part of the libellants and his testimony was taken down by me in my own proper handwriting.

I further certify that Quinton Corwine, esq., was present as counsel of libellants.

R. E. STILLWELL,
U. S. Com'r for Southern District of New York.

45 Supreme court of the District of Columbia, in admiralty.

THE UNITED STATES ON BEHALF OF THE officers & men of the North Atlantic Squadron
versus
THE STEAM VESSEL OF WAR SEABOARD & TEN others.
} No. 268.

THE UNITED STATES ON BEHALF OF THE officers & men of the North Atlantic Squadron
versus
THE IRON-CLAD RAM & SHIP OF WAR TEXAS & ten others.
} No. 269.

THE UNITED STATES ON BEHALF OF THE officers & men of the United States naval force on the York & Pamunkey Rivers
versus
THE STEAM VESSEL OF WAR LOGAN & OTHERS. } No. 270.

Notice is hereby given to all whom it may concern that on Wednesday, the 25th day of August, A. D. 1875, the testimony of P. T. Yeatman and others will be taken at the office of the clerk of the United States circuit court, in the city of Richmond, Va., between the hours of 9 o'clock a. m. & 5 o'clock p. m., and the taking of said testimony will be continued from day to day until the same is completed, said testimony to be used on the hearing of any or all of said cases, in behalf of said captors & libellants, so far as the same is relevant & competent.

In triplicate.

Washington, D. C., Aug. 21, '75.

R. M. CORWINE & SON,
Special Counsel for Captors, &c.

46 U. S. COMMISSIONER'S OFFICE,
Custom-House, Richmond, Aug. 25, 1875.

THE UNITED STATES ON BEHALF OF THE officers & men of the North Atlantic Squadron
vs.
THE STEAM VESSEL OF WAR SEABOARD & TEN others. } No. 268.

THE SAME
vs.
THE IRON-CLAD RAM & SHIP OF WAR TEXAS & ten others. } No. 269.

THE UNITED STATES ON BEHALF OF THE officers & men of the United States naval force on the York & Pamunkey Rivers
vs.
THE STEAM VESSEL OF WAR LOGAN & others. } No. 270.

Depositions taken before me, M. F. Pleasants, commissioner of the circuit court of the United States for the eastern district of Virginia, to be used in the above causes pending in the supreme court of the District of Columbia, in pursuance of notice hereto attached.

Deposition of Jame A. Semple.

JAMES A. SEMPLE, being first duly sworn, in answer to interrogatories by W. W. Gordon, of counsel for complainants, deposes and says:

47 Question 1. Please state what position you occupied in the United States service before the late civil war; what position you occupied in the Confederate States service during the late war, and where were you stationed?

Answer. I was paymaster in the United States naval service previous to the war; and I was paymaster in the Confederate States naval service during the late war. I was, in the early part of the late war, on the Mississippi River, at New Orleans—was ordered to join the Merrimac at Norfolk when she was fitted up, and remained upon her until she was blown up by our own forces. From that time until a few months before the surrender I was stationed at Drewry's Bluff. During those few months I was stationed at Richmond, retaining my position as paymaster at those places.

Question 2. Please state what was the number of the force stationed at Drewry's Bluff in charge of the batteries at that point, and which were engaged in co-operating with the Confederate States Navy, on James River, up to the time of the surrender.

48 Answer. When the Merrimac was blown up, the whole of the men on board were marched up in a body to Drewy's Bluff for the purpose of manning the batteries then erected and to be erected at that point. This force consisted of 425 men, and it was maintained up to that number, with very trifling variations, up to the fall of Richmond. At the time of the surrender the number was nearly, if not exactly, 425, who were stationed there in charge of the batteries, and co-operating with the Confederate States naval force on James River. Very soon after the time that the force was moved up to Drewry's from the Merrimac, a battalion of marines, consisting of 250 men, was stationed at the bluff and so continued until the surrender, acting with the forces moved from the Merrimac in co operating with the Confederate States Navy. In addition to these two forces there was a battalion containing about 250 artillerymen in charge of a series of heavy guns on the bluff, which continued there also until the time of the fall of Richmond, all of 49 them co operating with each other and with the Navy in the defense of James River; but of this latter number I cannot speak with as much accuracy as of the two former. I am sure, however, that the number was kept up to not less than 225. The whole of this force, aggregating not less than 900, was under the command of Captain S. Smith Lee, of the Confederate States Navy.

JAMES A. SEMPLE.

There being no other witnesses in attendance, the further taking of these depositions is adjourned until to-morrow at 11 o'clock.

M. F. PLEASANTS,
U. S. Com'ss.

U. S. COM'S'S OFFICE, RICHMOND, VA.,
Aug. 26, 1875.

Present, W. W. Gordon, of counsel for captors.

P. T. YEATMAN, a witness of legal age, being first duly sworn, in answer to interrogatories by counsel for captors, &c., deposes and says:

50 Question 1. Were you stationed at or near Chaffin's Bluff, on James River, during the late civil war; and, if so, were you familiar with the force kept there in the Confederate States service?

Answer. I was stationed at Chaffin's Bluff at the time of the fall of Richmond, and had been for more than two years, and was perfectly familiar with the force at that point.

Question 2. Please state the number of the force stationed at the bluff in defense of the batteries on James River at that point, in co-operation with the Confederate States naval force.

Answer. The number of the force so engaged was kept uniformly up to 525. It might have been a few more or less for short periods, owing to sickness or furloughs, but that was the number intended to be maintained constantly as necessary for the proper defense of the river at that point, in co-operation with the Navy; and if the number at any time was reduced, it was only temporary and accidental, and the variation was very slight. The number at the time of the fall of Richmond was, as it had long previously been, 525, or within very few of that number. My impression is, that it was fully up to that number at that time. 51

P. T. YEATMAN.

I, M. F. Pleasants, commissioner of the circuit court of the United States for the eastern district of Virginia, do hereby certify that the foregoing depositions of James A. Semple and P. T. Yeatman were reduced to writing by me and signed by the said James A. Semple and P. T. Yeatman, at the office of the clerk of said court on the days above stated; and I further certify that I am not of counsel or attorney for either of the parties to said suits, nor am I interested in the event thereof.

Witness my hand the 26th day of August, 1875.

M. F. PLEASANTS,
U. S. Comm'r Eastern Dist. Va.

52 In the supreme court of the District of Columbia. In admiralty.

THE UNITED STATES, ON BEHALF OF THE OFFICERS & men of the North Atlantic Squadron,
vs.
THE STEAM VESSEL OF WAR SEABOARD AND ten others.
} No. 268.

THE UNITED STATES, ON BEHALF OF THE OFFICERS & men of the North Atlantic Squadron,
vs.
THE IRONCLAD SHIP OF WAR TEXAS AND TEN others.
} No. 269.

THE UNITED STATES, ON BEHALF OF THE OFFICERS & men of the United States naval force on the York & Pamunkey Rivers,
vs.
THE STEAM VESSEL OF WAR LOGAN AND OTHERS.
} No. 270.

Notice is hereby given to all whom it may concern, that on Thursday, Aug. 19, 1875, bet. the hours of 9 o'clock a. m. & 6 o'clock p. m., testimony will be taken on behalf of said libellants and captors in the above-entitled suits at the office of the clerk of the United States district court in the city of Norfolk, Virginia, to be read on the trial of said causes or either of them, in behalf of said captors & libellants, so far as the same may be relevant & applicable; and the taking of said testimony will be continued from day to day until all is completed.

In triplicate.

Washington, D. C., Aug. 16, 1875.

R. M. CORWINE & SON,
Special Counsel for Libellants & Captors.

53 THE U. S., ON BEHALF OF OFFICERS &
men of the North Atlantic Squadron,
vs.
THE STEAM VESSEL OF WAR SEABOARD &
others. } # 268.

SAME
vs.
THE IRONCLAD SHIP OF WAR TEXAS & TEN
others. } # 269.

THE U. S., ON BEHALF OF THE OFFICERS &
men of the U. S. naval force on the York &
Pamunkey Rivers,
vs.
THE STEAM VESSEL OF WAR LOGAN & OTHERS. } # 270.

Present, Quinton Corwine, of counsel for lib'l'ts & captors.

Be it remembered that on this 19th day of August, 1875, before me, Chas. T. Barry, a commissioner of the circuit court of the U. S. for the eastern dist. of Virginia, at my office in the city of Norfolk, Virginia, personally appeared, pursuant to the annexed notice, Thomas Kevill, J. J. Young, and John D. Simms, who, being duly sworn according to law, did, to the following interrogatories, answer and depose as follows, to wit:

THOMAS KEVILL:

Question 1. Please state your name, residence, age, and occupation.

Answer. My name is Thomas Kevill. My age is 47 years. My occupation, clothing merchant. My residence, Norfolk, Virginia.

Question 2. What occupation were you engaged in, or where were you in the spring of 1865?

54 Answer. I was captain of Artillery Company A, Smith's battalion, headquarters at Howlitt's House, on James River, Va. I had charge of Battery Wood, opposite Dutch Gap, on James River. I had charge of it before and at the evacuation.

Question 3. What was the number of men composing this battalion at the time you speak of; that is, at the fall of Richmond, as near as you can recollect?

Answer. Between three hundred and fifty and four hundred men, probably nearer four hundred, occupying three batteries, co-operating with the naval forces of the Confederacy.

Question 4. Are you familiar with the number of men engaged in the defence of Richmond at that time on any of the vessels, or in any of the water batteries?

Answer. I am not.

Last general question by the commissioner. Do you know anything further that would be of interest to the parties to these proceedings?

Answer. I do not.

And further deponent saith not.

THOMAS KEVILL.

55 J. J. YOUNG sworn and deposed.

Question 1. Please state your name, age, residence, and occupation.

Answer. John James Young; age, 59 years; residence, Norfolk, Va.; occupation, following the sea.

Question 2. What occupation were you engaged in, or where were you in the spring of 1865, and particularly at the fall or evacuation of Richmond?

Answer. I was captain of artillery in the Confederate service, stationed at Chapin's Bluff, on the right bank of the James River, or north side, and the nearest defense to the enemy on that bank of the river.

Question 3. What was the number of men engaged in that fort, or in the command you were attached to; and were you and said forces acting in support of the Confederate Navy in such defense of Richmond?

Answer. The number of men in the fort was about five hundred & fifty, and said forces and myself were so engaged in the support of the Confederate Navy at the fall or evacuation of Richmond. 56

Question 4. Are you familiar with the number of men engaged in the water batteries, or on board any of the vessels of said navy at that time?

Answer. I am not.

Question 5. Were the various forts and water batteries along the river at said time co-operating with the navy in the defense of Richmond?

Answer. They were.

Question 6. Were and are the James and York Rivers arms of the sea, and navigable to ships of twenty tons burthen?

Answer. They were and are.

Question 7. Were the Confederate vessels destroyed or sunk at the approach of the United States forces, and in order to prevent them from falling into the hands of the Federal forces at the date aforesaid?

57 Answer. To the best of my knowledge they were, and I believe they were because it was a part of the policy to obstruct the United States forces and prevent their advance.

Last general question by the commissioner. Do you know of anything further in these matters that would be of interest to any of the parties in these suits?

Answer. I do not.

And further deponent saith not.

J. J. YOUNG.

58 On the same day personally appeared before me JOHN D. SIMMS, who upon oath and in answer to questions by the same counsel testified as follows:

Question 1. What is your name, age, residence, and occupation?

Answer. My name is John D. Simms; my age, 53 years; my residence, Norfolk, Virginia; clerk in Norfolk navy-yard.

Question 2. What occupation were you engaged in, or where were you in the spring of 1865—more particularly at the fall or evacuation of Richmond?

Answer. I was commanding a battalion of marines stationed at Drewry's Bluff (said bluff being located about 6 miles from Richmond on James River).

Question 3. What was the number of men engaged in that fort or in the command you were attached to, and was said command acting in the support of the Confederate Navy in the defense of Richmond at the time of its fall?

59 Answer. There were about five hundred sailors and one hundred and fifty marines, and about three hundred and fifty artillery acting with us, and this was a naval command engaged in backing up and supporting the navy.

Question 4. Are you familiar with the number of men engaged on the vessels of the Confederate fleet, and as well in the other water batteries and defenses on the river at that time?

Answer. I am familiar with the Fredericksburg, Richmond and Virginia, and should think their complement to be about one hundred and eighty men. I was not familiar with any of the other batteries except those spoken of. These vessels were powerful ironclads.

Question 5. What was the character of the obstructions and their strength which were placed in the river by the Confederates to prevent the passage of the Federal fleet?

Answer. The obstructions were composed of cribs filled with
60 rocks, and sunken steamers, and were formidable and impassable,
and torpedoes were placed all along the river.

Question 6. Were the various forts and water batteries along the river at said time co-operating with the navy in the defense of Richmond?

Answer. They were.

Question 7. Were the Confederate vessels destroyed or sunk at the approach of the United States fleet, and in order to prevent them from falling into the hands of the Federal forces at the date aforesaid?

Answer. They were.

Last general question by the commissioner:

Question. Do you know anything further in these matters that would be of interest to any of the parties in these suits?

Answer. I do not.

And further deponent saith not.

Addition' question by counsel:

Question. Were & are the James & York rivers arms of the sea, and navigable to ships of 20 tons burthen?

Answer. They were and are.

Further deponent saith not.

JOHN D. SIMMS.

61 I, Charles T. Barry, a commissioner of the circuit court of the
United States in and for the eastern district of Virginia, resident
at Norfolk, in said district, do hereby certify that the reason for taking the foregoing depositions is, and the fact is, that the said Thomas Kevill, J. J. Young and John D. Simms are material and necessary witnesses in the causes in the caption of the said depositions named, and all reside at Norfolk, in the State of Virginia, a greater distance than one hundred miles—and the place of taking the deposition is more than one hundred miles from the place of trial of the causes for and in which said depositions were taken.

I further certify that, on the nineteenth day of August, in the year eighteen hundred and seventy-five, I was attended by the said Thomas Kevill, J. J. Young and J. D. Simms, the said witnesses, who are of
sound mind and lawful age, and the said witnesses having been
62 by me first carefully examined and cautioned and sworn to tes-
tify the whole truth in the cause aforesaid, did give his testimony,
which testimony so given by them was reduced to writing in the presence of the witnesses, and that each one of them subscribed the same as and for his deposition in my presence, and that I have retained the said depositions in my possession for the purpose of forwarding them under my own hand to the court for which it was taken, with the certificate of the reason of their being taken.

I further certify that I am not of counsel or attorney to either of the parties in the causes in and for which the said deposition was taken, nor in any way interested in the event of said causes.

In testimony whereof I have hereunto set my hand and seal of office, at Norfolk, Va., the nineteenth day of August, A. D. 1875.

[SEAL.] CHAS. T. BARRY,
U. S. Commissioner.

63 In the United States supreme court of the District of Columbia.

The United States on behalf of the officers & men of the North Atlantic Squadron *versus* The steam vessel of war Seaboard and ten others.	No. 268. Admiralty docket.
The United States on behalf of the officers & men of the North Atlantic Squadron *versus* The iron-clad ram and ship of war Texas and ten others.	No. 269.
The United States on behalf of the officers and men of the United States naval force on the York & Pamunkey rivers *versus* The steam vessel of war Logan and others.	No. 270.

It is stipulated and agreed that testimony may be taken on behalf of libellants in the above-entitled causes at Norfolk, Virginia, and Richmond, Virginia, any time before the 15 day of September, 1874,
64 before any officer authorized to take depositions for use in the United States courts, and said testimony may be read in any or all of said cases so far as the same is relevant and competent.

Washington, D. C., Aug. 26th, 1874.

(Signed) R. M. CORWINE & SON,
Counsel for Libellants.
GEO. D. FISHER,
U. S. Att'y D. C.

Copy. Attest:
Benj. B. Foster.

65 United States of America,
Eastern District of Virginia, ss:

Be it remembered that on this third day of September, in the year of our Lord one thousand eight hundred and seventy-four, I, Benjamin B. Foster, a commissioner duly appointed by the circuit court of the United States for the eastern district of Virginia, and duly commissioned and qualified under the laws of the United States to take depositions for use in the courts of the United States, did, at the instance of the libellants in certain causes in admirality pending in the United States supreme court of the District of Columbia, the titles of which causes are set out in the stipulation, of which a copy is hereto attached, did call and cause to be and personally appeared before me at my office, No. 26 Bank street, in the city of Norfolk & eastern district of Virginia, Benjamin P. Loyall, to testify & the truth to say on the part and behalf of the libellants in the certain suits named in the stipulation aforesaid.

Present, L. H. Letcher, of counsel for libellants.

66 **Benjamin P. Loyall**, being produced, sworn, and examined on behalf of the libellants, doth depose as follows in answer to the interrogatories following:

First. Please state your name, residence, and occupation.

Ans. Benjamin P. Loyall; residing at Norfolk, and by occupation a merchant.

Second. Were you in the Navy of the Confederate States in the spring of 1865; and, if so, what was your rank, and in what particular service were you engaged?

Ans. I was in the Navy of the Confederate States in the spring of 1865, with the rank of commander, and a short time previous to the evacution of Richmond I was commandant of midshipmen on board the school-ship Patrick Henry.

Third. State, as far as you can, the names of the vessels of war that were in James River at the time of the fall of Richmond, with the 67 complement of men on board of each, and the value of each; also, the number of men in the forts on the river that were to aid the vessels.

Ans. There were (1) the Virginia, which was the most valuable, an iron-clad of the value of four hundred thousand dollars; her complement of men was about one hundred and forty. (2.) The Richmond iron-clad, three hundred and fifty thousand dollars; one hundred and forty men. (3.) The Fredericksburg, iron-clad, three hundred and fifty thousand dollars; one hundred and twenty-five men. (4.) The Nansemond, wooden; two hundred thousand dollars; sixty men. (5.) The Hampton, wooden; one hundred and seventy-five thousand dollars; sixty men. (6.) The Patrick Henry, wooden; one hundred thousand dollars; forty men. I recollect there were also (7) the Roanoke, wooden; one hundred thousand dollars; thirty-five men. Also, (8) the Beaufort; forty thousand dollars; twenty-five men. (9.) The Shrapnell, wooden; fifty thousand dollars; twenty-five men. (10.) The Texas, wooden; 68 one hundred and eighty thousand dollars, and no crew, being incomplete and in process of construction, and having not yet gone into commission. These are fair money valuations at the standard of United States legal tender. I cannot speak as to the number of men in the forts, but I know that the forts were fully equipped and the guns well manned at the time I was on the river.

Fourth. State, if you please, by whom the vessels were destroyed, and for what purpose.

Ans. They were destroyed, to the best of my knowledge and belief, by orders of the Confederate officers in command on James River to prevent their falling into the hands of the enemy.

Fifth. Are the York & James rivers arms of the sea, and are they navigable for ships of twenty tons burthen?

Ans. They are navigable rivers; navigable for vessels exceeding twenty tons.

69 Sixth. State what were the character of the defenses of Richmond to prevent the approach and passage of the Federal fleet up the river.

Ans. They consisted of torpedoes, sunken vessels, and cribs of stone, together with the guns mounted in the forts on the banks of the river at Howlitt's, Chapin's, and Drewry's Bluffs.

And further deponent saith not.

B. P. LOYALL.

70 UNITED STATES OF AMERICA,
Eastern District of Virginia, ss:

I, Benjamin B. Foster, a commissioner duly appointed by the circuit court of the United States for the eastern district of Virginia, under and by virtue of the act of Congress, entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20, 1812, and the act of Congress, entitled "An act in addition to an act entitled 'An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States,'" passed March 1, 1817, and the act entitled "An act to establish the judicial courts of the United States," passed September 24, 1789, do hereby certify that the foregoing depositions were taken pursuant to the terms of a stipulation and
71 agreement exhibited to me, and of which a copy has been made by me and attached to this deposition.

I further certify that under the provisions of the stipulation and agreement aforesaid, the notice of the time and place of taking the said depositions, signed by me, was served on the adverse party.

I further certify that on the third day of September, 1874, I was attended at my office, No. 26 Bank street, in Norfolk, by S. H. Letcher, esquire, of counsel for libellants, and the witness Benjamin P. Loyall, who was of sound mind and lawful age, and the witness was by me carefully examined and cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth, and the deposition was by me reduced to writing in the presence of the witness, and from his statements, and after carefully reading the same to the witness, he subscribed the same in my presence.

72 And I do further certify that I am not of counsel or attorney for either of the parties to either of the suits in the caption mentioned, or in any way interested in the event of any or either.

In testimony whereof I have hereunto set my hand and seal this 4th day of September, A. D. 1874.

[SEAL.] BENJ. B. FOSTER,
U. S. Commissioner.

Filed Aug. 23, 1877.
Fees, $5.59. Paid.

73 EXHIBIT D. D. P.

1710 H ST., *June 2d*, 1874.

DEAR SIR: Enclosed I send you a copy of a letter I wrote to the Secretary of the Navy, with a list of ten naval vessels belonging to the rebels, captured & destroyed on James River at the time that stronghold of the enemy was taken.

The following is a statement of their actual value:

Virginia	$400,000
Richmond	400,000
Fredericksburg	400,000
Nansemond	250,000
Hampton	200,000
Roanoke	150,000
Shropnel	60,000
Patrick Henry	100,000
Beaufort	40,000
Texas	180,000
Total	$2,180,000

his is the lowest valuation that could be put upon these vessels, including their armament. This does not include munitions of war, 74 naval guns, &c., at the Tredagar Works, and at the naval ordnance depot; all that fell to the Army. A great deal was delivered to the Navy, and sent to the Norfolk navy-yard; how much, I do not know.

I have written to Admiral Radford, to tell what he knows of the matter, as I left Richmond a day or two after the capture & did not again return, Admiral Radford acting for me in my absence.

Yours, very truly,

DAVID D. PORTER.

The Messrs. CORWINE.

I hereby certify that the foregoing letter is a true copy of the original one referred to in the deposition of John M. Brook.

T. BENTON TAYLOR,
U. S. Commissioner.

75 In the supreme court of the District of Columbia.

THE UNITED STATES ON BEHALF OF THE OFFICERS & men of the North Atlantic Squadron
versus
THE STEAM VESSEL OF WAR SEABOARD AND ten others.
} No. 268. In admiralty.

THE UNITED STATES ON BEHALF OF THE OFFICERS & men of the North Atlantic Squadron
versus
THE IRON-CLAD RAM & SHIP OF WAR TEXAS and ten others.
} No. 269. Do.

THE UNITED STATES ON BEHALF OF THE OFFICERS & men of the United States naval forces on the York & Pamunkey rivers.
versus
THE STEAM VESSEL OF WAR LOGAN & others.
} No. 270. Do.

It is stipulated and agreed that the testimony of John M. Brooke and others may be taken before competent authority at the law office Letcher & Letcher, in the city of Lexington, Virginia, at any time in the month of August, 1874, for use on the hearing of the above-entitled 76 cases, and the same may be read on the hearing of either of said case so far as it is relevant and competent.

R. M. CORWINE & SON,
Counsel for Libellants.

Service accepted.

GEO. P. FISHER,
U. S. Att'y D. C.

WASHINGTON, D. C., *Aug.* 20, '74.

77 In the supreme court of the District of Columbia.

The United States on behalf of the officers & men of the North Atlantic Squadron.
vs.
The Steam Vessel of War Seaboard and ten others.
No. 268. In admiralty.

The United States on behalf of the officers & men of the North Atlantic Squadron
vs.
Thl Iron-Clad Ram & Ship & War Texas and ten others.
No. 269. In admiralty.

The United States on behalf of the officers & men of the United States naval force on the York & Pamunkey rivers
vs.
The Steam Vessel of War Logan & others.
No. 270. In admiralty.

The deposition of John M. Brooke, taken before me, T. Benton Taylor, United States commissioner for the western district of Virginia, pursuant to the agreement of the attorneys of the respective par-
78 ties in the above-entitled causes, and hereto annexed, at the office of Letcher & Letcher in the town of Lexington, State of Virginia, on the 27th of August, A. D. 1874, between the hours of 10 a. m. and 1 m. to be read as evidence on behalf of the libellants in a certain cause now pending undetermined in the supreme court of the District of Columbia, wherein the United States on behalf of the officers & men of the North Atlantic Squadron is libellant against the steam vessel of war Seaboard & ten others. The United States on behalf of the officers & men of the North Atlantic Squadron is libellant against the iron-clad ram & ship of war Texas and ten others; also the United States on behalf of the officers & men of the United States vaval force on the York & Pamunkey Rivers is libellant against the steam vessel of war Logan & others.

Present, S. H. Letcher, att'y for libellants.

John M. Brook, of Lexington, Virginia, being produced, sworn, and examined on behalf of the libellants, doth depose as follows:

79 Question 1st. Please state your name, age, residence and occupation.

Answer. My name is Jno. M. Brook; residence, Lexington, Virginia; occupation, professor at the Virginia Military Institute; age, 47 years.

Question 2. Were you in the navy of the Confederate States in the spring of 1865; if so, what was your rank, and in what particular service were you engaged at that time?

Answer 2d. I was a commander in the navy at that time and in charge of the office of ordnance and hydrography.

Question 3d. State as far as you can the names of the vessels of war that were in James River at the time of the fall of Richmond, with the complement of men on board of each, and the value of each; also the number of men in the forts on the river, that were to aid the vessels.

Answer 3d. There were the Richmond, Virginia, and Fredericks-

80 burg, three iron-clads, afloat. The Texas also was incomplete; my impression is that she had not been put in com'ission; then there were several gunboats & steamers (I cannot testify as to the Roanoke), viz: Nansemond, Hampton, Shropnell, Patrick Henry. The list given in the testimony of Admiral Porter agrees with my recollection. In regard to the number of men aboard of these vessels, I can only say that they had the usual complement of vessels of their armament; the number of men on board of the Nansemond, Patrick Henry, and Hampton are overestimated, I think; I cannot say positively. The value affixed by Admiral Porter, in his evidence, to the Beaufort and Texas concurs with my estimate; I concur with Admiral Porter in his general estimate of the vessels given in his letter to the Secretary of the Navy of April 5, 1865, & the letter to Messrs. Corwine, of June 7, 1874,* with the exception of the Nansemond and Hampton, which I think may be overestimated, but I cannot speak of these esti-
81 mated values with accuracy; I cannot say what number of men were in the forts on the river; I know that the guns were well man'ed prior to the order to evacuate Richmond.

Question 4. State as near as you can the value of the two new boats, the ram Texas and steamer Beaufort, with their machinery, lumber, &c., which were not destroyed but fell into the hands of the Federals.

Answer 4. I include these in my concur'ence with Admiral Porter, given in my answer to interrogatory third.

Question 5. State if you please by whom the vessels were destroyed, and for what purpose.

Answer 5. As far as I know they were destroyed by direction of the officers in command to prevent their falling into the hands of the enemy on the evacuation of the city.

Question 6. Are the York & James Rivers arms of the sea, and are they navigable for ships of twenty tons burthen?

82 Answer 6. They are navigable rivers; navigable for vessels exceeding twenty tons.

Question 7. State what were the character of the defences of Richmond, to prevent the approach or passage of the Federal fleet up the river.

Answer 7. There were obstructions in the river, sunken vessels, timber, stones, &c.; th*eir* were also submarine torpedoes and powerful batteries at Houlitt's & Drury's Bluff, and others between, all commanding the river.

Question 8. At what time did the Confederates commence blowing up and destroying their vessels?

Answer 8. I cannot say positively; I think they were destroyed during the night of the evacuation. I left the city about 11 o'clock that night.

No more questions being asked, further this deponeth saith not.

JOHN M. BROOKE.

83 UNITED STATES OF AMERICA,
Western District of Va., ss:

I, T. Benton Taylor, United States commissioner for the district aforesaid, do hereby certify that the foregoing deposition was duly taken, sworn to, and subscribed before me at the time and place mentioned therein.

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*Exhibit D. D. P.

Given under my hand this 27th of August, A. D. 1874.

T. BENTON TAYLOR,
U. S. Commissioner for Western District of Virginia.

Commissioner's fee for deposition, $5.10; paid by E. H. Carmich.

84 In the supreme court of the District of Columbia.

UNITED STATES IN BEHALF OF OFFICERS AND men, &c.,
vs.
WAR SHIP' TEXAS, BEAUFORT, SEABOARD & others.
} Admiralty. No. 268. 269.

Take notice that on Thursday, the 6th day of July, 1876, at 11 o'clock of that day, the proctors for the captors in the above causes (268 and 269) will proceed to take the depositions of James Parker, and such other witnesses as may be produced before Joseph Gutman, jr., U. S. court com'r, at his office, in New York City, and that such examination will proceed and continue from day to day until the witnesses in said causes accessible to said city shall have been examined, and that the depositions so taken will be used for the captors at the hearing of said causes. You are hereby advised and invited to be there, and cross-examine such witnesses, if you shall see fit.

July 1, 1876.

ENOCH TOTTEN,
QUINTEN CORWINE,
Proctors for Captors, &c.

To Hon. H. H. WELLS,
U. S. Dist. Att'y for D. C.

85 In the supreme court of the District of Columbia.

UNITED STATES IN BEHALF OF OFFICERS & men, &c.,
vs.
WAR SHIP' TEXAS, BEAUFORT, SEABOARD & others.
} Admiralty. No. 268, 269.

Depositions taken on the part of the captors in the above causes under and pursuant to the annexed notice before me, Joseph Gutman, jr., United States commissioner.

NEW YORK, *July* 6, 1876—11 a. m.

Present, Quinten Corwine, esq., proctor for captors.

JAMES PARKER, a witness of lawful age, produced on the part of the captors, having been by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the matter of controversy herein, and being examined by Mr. Corwine, deposes and says:

1. Q. State your name, age, residence, and occupation.

86, 87 A. My name is James Parker. I am 44 years old. I reside at Plainfield, N. J. I am sec'etary of the American Shipmasters' Association, doing business at 37 William street, N. Y.

2. Q. Where were you in the latter part of March and the fore part of April, 1865?

A. I was at that time a lieutenant-commander in the regular Navy of the United States, and in command of the United States steamer Maumee, stationed with my vessel in the James River, Virginia, at and above City Point.

The witness states that before proceeding further with his examination he would prefer to examine his books and papers, which are at his home.

Examination adjourned to July 7, 1876, at 12 m.

88 N. Y., *July* 7, 1876—12 m.

Present, Mr. Corwine, counsel for captors, and George Bliss, esq., U. S. attorney for United States.

Examination of the witness JAMES PARKER resumed:

Q. Please state what knowledge you have of the evacuation of Richmond, Virginia, and give a history of the action of the vessels comprising the North Atlantic Squadron on the James River at that time.—A. I remember the circumstances of that evacuation well, and have refreshed my memory by reference to letter books and other papers. I remember hearing on the night of Sunday, April 2d, towards midnight, a heavy cannonading, with a noise seeming like explosions up the river. My vessel was at the time stationed somewhere between City Point and the lower end of the Dutch Gap Canal. The up river division of 89 the fleet was stationed just above the lower end of Dutch Gap Canal, in what was called a reach, and just below obstructions in the river, which had been placed there partly by our own forces and partly by the Confederates, which obstructions were commanded by the battery called Howlett's, so named from the residence of a man of that name. I have been informed and believe—(Objected to as to any statement of information and belief)—that the firing I have already referred to was between the battery at Howlett's and the vessels of the up-river division, stationed below these obstructions. We heard next day that the rebel vessels were evacuating Richmond—(Objected to)—and that evening (the 3d) I received an order to proceed with my vessel up the river in pursuit. Some of my men were absent on liberty, and I could not get under way, and did not get under way until early next morning, at about 4 o'clock of the 4th. Upon arriving, which must have been somewhere about 7 or 8 o'clock in the morning, at the 90 obstructions referred to below Howlett's, I found the Spuytendevil, a torpedo boat, and sundry small boats engaged in blowing up and removing these obstructions. Several tugs, small vessels belonging to the fleet, one double ender, the Sassacus, a gunboat called the Chippewa, and another one that had formerly been a flag-boat, the Commodore Perry, had already passed the obstructions, and were proceeding up the river as fast as was consistent with prudence, proceeded by small boats dragging for torpedoes. These obstructions at Howlett's consisted of sunken vessels, cribs, and all sorts of things, débris and logs that had floated down. One of the explosions had closed partly the passage through these obstructions, through which these other boats had passed, and caused me some delay. I got through, and by half-past one my vessel had arrived at the obstructions opposite Drury's Bluff, as the rebels called it—Fort Darling, as we called it. I would state that on the way up to this point I passed the rebel ram 91 Texas, which vessel had been captured and taken possession of—(Objected to unless witness saw it)—by some of the vessels which had been in the advance, my vessel being then in sight and within signal

distance at the time of such capture. The ram Texas was lying at anchor opposite Chapin's Bluff, which is at the next turn of the river, below Drury's Bluff. I found the vessels all stopped by these obstructions at Drury's Bluff. There was also a rebel iron clad sunk, partly out of water, near Chapin's Bluff. After sounding the obstructions at Fort Darling, we found that a narrow passage-way had been left on the right-hand side going up. This the rebels had attempted to close by anchoring another one of their iron-clads in it, and then blowing her up. Part of her armor and of the upper part of the vessel was lying on the bank burning and smoking, where it had been thrown by the explosion. The attempt had been a failure to close the passage-way. The officer commanding the Commodore Perry, the side-wheel ferry-boat already referred to, undertook
92 to pass through the obstructions, but being a little afraid of the
bank on the starboard or right-hand, kept a little too much port or to the left, and ran aground. I gauged the space that was left open between his vessel and the bank, and concluded that my vessel could go through, swung my boats on board and went through, and the Maumee was thus the first vessel of war to pass the obstructions. Some few of the tugs and smaller boats had proceeded me. By this time the United States steamer Malvern, bearing Admiral Porter's flag, and the person of the President of the United States, Abraham Lincoln, had arrived below the obstructions; and being through, and the way to Richmond clear, I signalled to Admiral Porter and the President that fact and offered to take him and the President to Richmond, to which the Admiral replied by signal, "Never mind us; get there yourself as quick as possible;" or something to that effect. I steamed ahead and found out that my
93 pilot did not know as much as he thought he did, and got aground
myself on Richmond bar. This was about 3 o'clock p. m. of Tuesday, the 4th, and there my vessel lay until next morning, the 5th, when, at high tide, I proceeded to Richmond and anchored at Rocketts, which is at the head of tide-water navigation, the lower part of Richmond. We found Richmond on fire, burning and smoking, almost in ruins, and our troops in full possession of the city. President Lincoln and Admiral Porter, in one of the small torpedo boats or small launches, shortly after my vessel got aground, passed me, saluting me rather sarcastically. At Richmond we found several partially destroyed rebel vessels of war, gun-boats, and tug-boats. The Beaufort, a gun-boat, mounting one gun, on the ways; opposite Rocketts, and standing on the wharf at Rocketts, on the Richmond side, we found the boilers of the Texas all ready to put into her, and we found her machinery subsequently at Talbot's works, in Richmond, in charge of Mayor Williamson, C. S. N. He identified it to us as the machinery of the Texas.

94 4. Q. Who gave you the order to move in pursuit?

A. It came from the Admiral, either by signal, or was sent me through some of the usual channels. It came from proper authority, which I was bound to recognize.

5. Q. What was the first vessel to move up in pursuit?

A. I cannot say as to that.

6. Q. What vessel was in advance in removing the obstructions?

A. I found the Spuyten Devil engaged in that service.

7. Q. Please say what that firing sounded to you like, from your familiarity with sounds of that kind.

A. It was, unquestionably, cannonading, and there were explosions mixed with it. The cannonading continued for some hours, perhaps.

8. Q. How long was the North Atlantic squadron engaged in watching the movements of the Confederate fleet at that place?

A. I think we came into the river after the capture of Wil-
95 mington, in the latter part of February, or early in March, and
some of the iron-clads, the *Onondago*, for instance, and I think the Atlanta, and quite a number of other vessels, had been above City Point some months prior, for a long time. As soon as General Grant, with the Army, reached the James, he began to cry out for gun-boats, and they were at once sent up the river and kept his communications open from that time.

9. Q. About how many encounters, or skirmishes, or engagements, of any kind, took place between these opposing fleets?

(Objected to.)

A. I, personally, do not know.

10. Q. Was the Texas afloat at the time you saw her in possession of the North Atlantic fleet?

A. She certainly was, so far as I could judge from looking at her, and I never heard to the contrary.

11. Q. Were you ever on board the Texas; and if so, when? And from your experience, and your knowledge of vessels of that kind, and more particularly your knowledge of her (giving her condition as you
96 then saw her), what is your judgment of her then value?

(Objected to.)

A. I was on board of the Texas; not on the day of her capture. I was on board of her at Norfolk, subsequently. She was a very strong, heavily-built vessel, her hull all complete, ready for her armor, a small part of which was on her. She was shaped after the fashion of the Confederate iron clad, with a ram at the bow. She had part of her shafting in and propeller on. I should estimate her value as a war vessel, at that time, with her machinery and boilers, at not less than $250,000. I mean at the time she was captured.

12. Q. With respect to the location of the Texas when she was captured, how near were her boilers and machinery?

A. They were at Richmond, 6 or 7 miles away.

13. Q. Please describe the exact situation of the Beaufort, and the appearance of the ways on which she stood, and how near the water she was when you saw her.

97 A. By ways I mean what some people would call a marine railway. A marine railway differs from a dock. By marine railway the vessel is placed in a cradle, which cradle, with the vessel in it, is hauled up by machinery on to dry land. A floating dock is pumped out, and thus lifts the vessel out of water, and a dry dock, or dock, as it is commonly called, is pumped out, leaving the vessel on the bottom of the dock. The Beaufort sat on these ways, with perhaps, at high tide, 10 or 15 feet from the stern to the water. Her stern was the part nearest the water.

14. Q. Who took possession of the Beaufort on behalf of the North Atlantic squadron.

A. It was either done by myself or by the officers of my vessel, acting under my orders, on the morning of the 5th of April. We found the ways somewhat out of order, so that she could not be immediately lowered into the water. We had the ways fixed, and launched her, and retained possession of her from that time out. The vessel
98 remained in my possession, and under my orders made certainly
one trip to Norfolk and back to Richmond, and was subsequently turned over to the authorities of the navy-yard at Norfolk. I recollect seeing her afterwards at the Norfolk navy-yard.

15. Q. Did you find any one in possession of these ways?

A. I recollect a man named Graves, of whom I had known prior to the war, who claimed to have been a naval constructor, or assistant naval constructor of the Confederates. He was living in a little house near the ways. He claimed to be in charge of the navy-yard and of these ways.

16. Q. Did you, or any officer of the Maumee by your order, on or about Tuesday, April 4th, 1865, tell a rebel workman named Charles J. Fox, who swears he was superintend*a*nt of this marine railway or ways on which the Beaufort was, to take charge of this vessel and complete the repairs on her and he would be paid, or did you authorize any one to give any such instructions?

99 (Objected to except as relates to himself.)

A. I don't remember anybody named Fox, and as to giving him, or any other rebel, whether a workman or not, any charge of the Beaufort, or any instructions to repair her I answer unhesitatingly I did not, nor did I authorize any other officer under my command to do so, nor did any officer under my command give any such instructions in my presence. Whatever repairs were necessary to the Beaufort, whether to the hull of the vessel or her machinery, were done by my own officers and men under my own orders. As to the ways, I have already stated that something about them was out of order, and it is possible, and not at all improbable, that if I had found anybody thereabouts who knew how to manage them, I should have employed him, and in such case his work would have been done under supervision of the officer in charge of the vessel. I remember nobody in the case except Graves. I remember him well.

100 17. Q. If Fox, or any one else, had been employed for a compensation by your order, or the order of any officer of your vessel, to take charge of the Beaufort and repair her then and there, would there not have been a voucher given at the time for such service?

A. Certainly. The payment would have been made through the paymaster of the vessel. I was the only officer who could give such order.

Examination adjourned to July 11, 1876, at 11 a. m.

101 NEW YORK, *July 11th*, 1876.

Pursuant to adjournment, parties present.

JAMES PARKER recalled.

Examination continued by Mr. CORWINE.

18. Q. Did the Beaufort look as if she had had any repairs put upon her when you took and put men in possession of her?

A. No; she did not seem to have had any recent repairs; on the contrary, I remember that she needed some.

19. Q. If any repairs had been put upon her as she lay upon those ways previously to your arrival, would you not have known that fact?

A. I would probably have noticed the fact.

20. Q. Whom did you put in possession of the Beaufort to take her to Norfolk after she was launched?

A. I put a mate, who is one of the subordinate officers of the Navy, and who was serving as such on board the Maumee, whose name I do not now remember; but I notice a copy of a letter in my letter-book addressed to Mate Henry Tobey, or Foley, or some such name as
102 that; the name is illegible, except the Henry; I do not now remember his name.* The letter is dated May 9th, 1865, on board

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* I would state that an examination of the Navy Register for 1865, wherein the list of mates is published, sa*d*isfied me that the name of this mate was Henry Tew.—JAMES PARK.

United States steamer Maumee, Richmond, Va., a copy of which is hereto annexed and marked Exhibit A.

21. Q. Do you remember a man by the name of Gentery as being in command of, or in charge of, the Beaufort after she was launched from these ways and ordered to be taken to Norfolk, and did he have orders to take said vessel to Norfolk?

A. I have a memory of a man named Gentery, who was one of the sailors—I think an ordinary seaman—of the Maumee. He had served, or professed to have served, on board those rebel iron-clads; had deserted from them and shipped in our service in the Navy. He had some knowledge of the river, and was acting or assisting in piloting the Maumee upon the occasion when I got aground on Richmond bar, as already stated, but he never was in command or in charge of the Beaufort. 103 From the nature of his position as a sailor he could not have been. He might, and probably did, act as pilot, but under the direction of the officer in charge, whose name I have already stated. This desertion from the rebels was some time prior to the capture—some months.

22. Q. What became of the rebel iron-clad Texas, after she was captured by your forces?

A. I have already stated she was sent by the Navy to the Norfolk navy-yard as a prize, as soon as convenient after her capture, and there remained when I last saw her.

23. Q. Do you know whether she was afterwards used in the navy-yard of the United States?

A. She was not used, but she was taken into the Navy of the United States, and appeared as one of the naval iron-clads in the list published in the Naval Register, which was the official list of the Navy up to, I think, three years afterwards.

24. Q. When Richmond was captured was there anything to 104 prevent the escape of the rebel fleet then on the James in front of Richmond except the North Atlantic squadron?

A. Nothing whatever.

25. Q. Did the United States Army, or any part thereof, render assistance, directly or indirectly, to the North Atlantic squadron, then on the James River, at any time between the last day of March, or the 5th of April, 1865?

A. I answer without hesitation that no such assistance was then or ever rendered by the Army to the Navy, though on many occasions the Navy assisted the Army.

26. Q. Could the Army, in its then position, have rendered any assistance to the North Atlantic squadron in those actions before Richmond at that time?

A. It could not and did not assist in the capture of those iron-clads—those vessels.

27. Q. Did the North Atlantic squadron start in pursuit of the Confederate fleet at the date you speak of, in consequence of any order from any military commander, or by reason of any agreement 105 upon a plan of action between the military and naval commanders of the United States forces, or what was the occasion of their pursuit of the enemy at that date?

A. I can only say that I never had any such order, and that the Navy never was under the order of any military man whatever, and no military man would have presumed to issue any such an order. Of course, if a military man asked assistance from the Navy, it was always cheerfully and promptly given; but we of the fleet on the James considered it our duty to attend to the rebel Navy before Richmond, leaving the Army to attend to the rebel Army, as I have already stated; we heard that the rebels were evacuating Richmond, and blowing up and destroying their fleet, and we started after the navy part of the rebel forces, as I presume the Army did after the military part. There was no consert of action; none was needed; there was no time to have any consert of action—no occasion for any. It was not a combined army and naval movement at all.

106 28. Q. Besides the Texas, Beaufort, and machinery you have spoken of, were there any other captures of vessels or materials made by the North Atlantic squadron at that time belonging to the enemy; if so, what, and by whom taken, and what was done with them?

A. We consider that the ram Fredericksburg was captured; she was an armor-plated vessel. We found her sunk, lying partly out of water, as I have already stated, near Chapin's Bluff, near the Texas. There was a tug-boat called the Seaboard, or Seaforth, sunk near Drury's Bluff, near the obstruction at Drury Bluff, and she was afterwards raised, and there were several small vessels partially destroyed and captured just below Rockett's, at Richmond. Then there was a large lot of timber—naval timber—oak, and a good many knees, and other naval timber captured and found at the navy-yards at Richmond, and then there was a great quantity of machinery of different kinds found at the rebel naval foundry or machine shop, all of which was seized as prize and sent to Norfolk navy-yard, Va. 107

29. Q. Do you know by whom?

A. It was sent by myself, acting under orders of the admiral of the squadron, as appears by copies of official letters, marked Exhibits B, C, D, & E. Thes' exhibits are copies of impressions made in my letter book from original letters.

29½. Q. How far from Richmond was the point at which the Confederate iron-clads were blown up and sunk?

A. By the river, I should suppose, some seven or eight miles; in an air line, a little less—not much less.

30. Q. Could the explosions caused by the blowing up of these iron-clads have been heard distinctly in Richmond?

A. Oh, yes; without any difficulty, I should suppose. They were heard by ourselves at a greater distance.

31. Q. Did you know of the Confederates blowing up or destroying their shore batteries?

A. I do not know of that. I think a few of them were destroyed—very few were destroyed, I think; guns were generally spiked; they went off in a great hurry.

108 32. Q. If they had blown up or destroyed these shore batteries would you not have known the fact?

A. Well, not at the time, though I do know the fact that they did not from visiting the batteries afterwards.

33. Q. Was the James River an arm of the sea and navigable for ships of twenty tons burden and upwards——

(The first clause of the question objected to.)

(Question continued)——and does the tide ebb and flow as far up as Richmond?

A. It is a navigable river for vessels of 2,000 tons, and the tide ebbs and flows up to the foot of the rapids at Richmond. Our vessels used regularly to swing with the ebb and flow at Richmond.

34. Q. What is a propeller—is she a double-ender?

A. No; a double-ender is never a propeller; a double-ender is a side-wheel boat; a propeller has her wheel or propelling power under water at the stern. That term double-ender was applied to a particular kind
of vessel we had in the service which would go like the ferry-
109 boats either way and had a rudder at each end.

35. Q. At what stage of completion must a war vessel like the Texas have reached before she could be launched?

A. The wooden part of her hull must have been finished and fastened and caulked up to the deep-load line. The Texas was not completed; all the wood work of her hull was completed. It is customary to complete all the wood work of vessels except what is called their joiner work before launching them.

36. Q. Do you know anything about the character of the machinery that was captured of which you have spoken; whether it was English or American, and of what it consisted? Please be as particular as you can.

A. I recollect the engines that were intended for the Texas. They were English engines. They had been taken out of a blockade runner that had been chased ashore by our fleet at Wilmington, North Caro-
lina; and then there was a pair of engines that had been taken
110 out of a vessel that they had captured from us. I think her
name was the United States steamer Alliance, one of our merchant gunboats. Then there were several pairs of beautiful engines, new engines that had been built by the Confederates for use in torpedo boats; oscillating engines they were. Then there was a great quantity of minor machinery—small boilers and various things that are used about ships of war—too numerous to mention.

37. Q. Was all the property taken at that time public property of the Confederacy?

(Objected to.)

A. It was so stated and believed by us to be. I made a catalogue of this machinery on information given to me by chief engineer Williamson to whom I have already referred, who was the rebel chief of the bureau of steam engineering.

38. Q. What has become of that catalogue?

A. That catalogue should be on file somewhere in the Navy Department. I sent it forward officially.

39. Q. What was the value of the Beaufort, for war purposes, at the
time of her capture by the North Atlantic squadron?

111 A. I should suppose about $15,000.

40. Q. Was Admiral Farragut with the North Atlantic squadron at this time, or did he have any official connection witn it?

A. He was not.

41. Q. Do you know who was in command of the rebel fleet?

A. I do not; though I heard that Semmes was.

Cross-examined:

1. X Q. Have you bee' examined before in these proceedings?

A. No.

2. X Q. Are you interested in the result of them?

A. I am, of course.

3. X Q. Expect to share in the proceeds, if any?

A. I do.

4. X Q. You spoke of having refreshed your memory by consulting books and papers—what books and papers?

A. By books and papers I mean that letter-book.

5. X Q. You mean your official letter-book?

A. Yes.

6. X Q. And does it contain letters other than those written upon official business?

112 A. I think only one.

7. X Q. Does it contain any letters not produced, written between the 31st day of March and the 10th day of April?

A. Yes.

8. X Q. Were any of those letters referred to by you in refreshing your memory?

A. Well, I looked over the whole book to see what there was. I have seen some of them.

9. X Q. Between those dates?

A. I looked over the whole letter-book for the purpose of refreshing my memory.

10. X Q. Will you please point out what letters between those dates were consulted by you in refreshing your memory?

A. The whole of them; none of these letters were written at that time. They are letters written, every one of them, long after that date.

11. X Q. How long after that date?

A. I think the 9th of May is the first one. Here is one, April 26th; here is another, April 14th. They don't refer to anything connected with this business.

12. X Q. There is no letter, then, between those dates to which you referred?

A. No.

113 13. X Q. Where did you say the Maumee lay when she was ordered to go in pursuit of the enemy on the 2d of April?

A. I don't remember her exact station, but it was somewhere in the river between the lower end of the Dutch Gap Canal and City Point.

14. X Q. How far was that below Richmond?

A. I don't know what the distance is.

15. X Q. You can tell approximately, can't you?

A. No; I cannot even do that. The river is very crooked. My memory of the matter is that it is about 40 miles from Richmond to City Point by the river.

16. X Q. When did you first learn of the capture of Richmond and Petersburg?

A. I presume it must have been on the 3d, as I stated, that we learned of the evacuation.

17. X Q. The log states that "on April 3d, 1865, subsequently to 12.30 p. m., signals having been received from the flag-ship, a crew was stationed at the howitzers, and made all necessary preparations
114 to fire a salute in honor of the capture of Richmond and Petersburg. Expended one pound of priming powder." Do you remember about that?

A. I do not. I think there must be some mistake about that.

18. X Q. Who kept the log book of the Maumee?

A. Well, the log book of the Maumee, as of all naval vessels, is kept by an officer called the master, who is the navigating officer of the vessel.

19. X Q. Do you remember to have seen the log?

A. I do not now remember, but I presume I must have seen it.

20. X Q. It was your duty to see it?

A. No, not necessarily; it was not necessary that I should see it at that time; possibly I might not have seen this log book at all; although it is likely that I did. I don't swear anything about that, one way or the other.

21. X Q. You speak of the up river division of the fleet at the time you were ordered to go in pursuit. What did you refer to by the up river division?

A. Well, by that I referred to the iron clads and other vessels
115 which were stationed in a body near the lower end of Dutch Gap
Canal.

22. X Q. What vessels were those? Name some of them.

A. The Onondago was one I remember, but I don't remember what iron-clads we had there at the time. I think the Atlanta was another.

23. X Q. Did these iron-clads go up to Richmond?

A. They did not.

24. X Q. Did they get above the Dutch Gap Canal after that?

A. They did not.

25. X Q. I mean after?

A. They never did.

26. X Q. Was the Monticello an iron-clad?

A. No; she was a metamorphosed gunboat—a merchant vessel.

27. X Q. Where did the Texas lay when you first saw her?

A. As already stated, near Chapin's Bluff, close to Chapin's Bluff.

28. X Q. Above the lower end of the Dutch Gap Canal?

A. Oh, yes.

29. X Q. How far above?
116 A. It must have been, by the river, eight or ten miles, I should
think.

30. X Q. And above the obstructions, of course?

A. Above the lower obstructions, below Howlett's.

31. X Q. How did she lie—relatively to the point at which you were, I mean?

A. Considerably above that, on the river.

32. X Q. Were you under way when you first saw the Texas?

A. Yes; proceeding up the river.

33. X Q. What was then her condition?

A. She was lying there at anchor.

34. X Q. In the stream?

A. In the stream.

35. X Q. Any one on board of her?

A. When I first saw her she was in charge of some of our men.

36. X Q. She was in charge of——

A. United States sailors.

37. X Q. From what vessel?

A. From some of the smaller tugs and vessels that had been dragging up torpedoes, that preceded us.

38. X Q. Did you see these men go aboard the Texas?

A. I did not.

39. X Q. Then she was in possession of some men, but you
117 don't know how they got aboard of her?
A. Yes.

40. X. Q. Do you know by whom she was captured, of your own knowledge?

A. I don't know absolutely, of course. We were all going up together, and these sailors happened to be in advance, dragging up the torpedoes.

41. X Q. You spoke of her having been captured by some vessel. How do you know that?

A. I know it from being in sight, and from the circumstances of the case.

42. X Q. Did you see her captured?

A. I didn't absolutely see anybody clamber up her sides.

43. X Q. You saw men on board of her?

A. Yes.

44. X Q. You saw sailors on board, and you assume that they captured her?

A. I know they did. I don't assume it at all.

45. X Q. When you went up the river where was the Monticello?

A. I don't remember about the Monticello at all.

46. X Q. Did the Monticello precede you up the river?

118 A. I don't know that she did or that she did not. I don't remember about her at all.

47. X Q. When you say, therefore, that you were the first vessel through the obstructions, it may be that the Monticello had preceded you, may it not?

A. Through what obstructions?

48. X Q. Where you telegraphed to Admiral Porter.

A. If you refer to the last obstruction, I say, unhesitatingly, that no vessel except little tugboats preceded me.

49. X Q. The Monticello did not?

A. She did not.

50. X Q. What do you mean by the last obstructions?

A. By the last obstructions I mean those at or near Drury's Bluff, the place where I have already described the Commodore Perry to be ashore.

51. X Q. Did the Beaufort lie above or below the last obstructions?

A. It was above. She lay on the ways opposite Richmond.

52. X Q. Then, if the Monticello at any time passed the Beau-

119 fort, it must have been after you had taken possession of the Beaufort?

A. Yes.

53. X Q. And you did not take possession of her until what date?

A. I presume it must have been on the 5th—on the morning of the 5th.

54. X Q. Not before the 5th?

A. I should think not; no, I didn't get there before that.

55. X Q. In going up the river from City Point to Rockett's did you, at any time, exchange fire with any battery or vessel?

A. No, sir.

56. X Q. Was there any firing by any vessel on the river going up—I mean any hostile firing?

A. That I saw?

57. X Q. That you saw or heard?

A. With the exception of the firing that I referred to in the beginning of my testimony, between our fleet and the battery at Howlett's, I saw none.

58. X Q. Before you got up?

A. Before I got up.

59. X Q. That was as early as the second of April?

A. Yes; Sunday night.

120 60. X Q. You heard none after that?

A. I heard none after that.

61. X Q. There was no opposition to any of the vessels going up the river other than that which was made by the obstruction which had been sunk prior to that time?

A. Not on the 4th and the 5th.

62. X Q. I mean when you went up?

A. No, sir; none at all.

63. X Q. How far above the Texas did the Beaufort lay?

A. I should suppose about 7 or 8 miles.

64. X Q. Do you remember when you got aground, the Monadnock being further up the river than you were?

A. No; I know she was not.

65. X Q. The log of your vessel states that "at 3.30 the ship got aground, got out stern anchor, hove taut waiting for tide to rise, served out 20 rations to Monadnock's boat crew who were up the river on duty." Do you know of any crew of the Monadnock being up the river on duty?

A. That probably refers to some of those small boats that I have already referred to as having preceded us.

121 66. X Q. But referred to as the Monadnock's boats?

A. I think it was a boat crew detached from the Monadnock—the Monadnock remaining below.

67. X Q. Was there, to your knowledge, any naval engagement on the 2d of April, between the United States fleet or any portion of it and the Confederate gunboats on the James or any portion of them?

A. There was not to my knowledge.

68. X Q. Was there on the 1st of April?

A. Not that I know of personally.

69. X Q. Wouldn't you have known it if there was; wouldn't you have heard it?

A. I would state in relation to that that it is impossible, at this late day, to remember all the firing or the occasion of hearing firing that was going on; there were so many engagements going on in the progress of the investment of Richmond.

70. X Q. On the 3d of April you heard of the capture of Richmond?

A. No; I heard that Richmond was being evacuated.

122 71. X Q. Cannot you say whether on the 1st or 2d you heard any naval engagements?

A. I can only say that I did hear the firing which took place at or about midnight on Sunday night—that was the 2d of April, and that I was afterwards informed that that firing had been between our vessels and a battery called Howlett's.

72. X Q. Where did you find the machinery that you have spoken of—on shore, wasn't it?

A. Yes; it was on shore, in this rebel machine shop.

73. X Q. Where was that?

A. I don't remember what the name of the street was.

74. X Q. In Richmond?

A. In Richmond; yes, on the bank.

75. X Q. How far from Rockett's?

A. I should judge that you might call that part Rockett's—at Rockett's.

76. X Q. How far from the shore?

A. From the navigable waters? I think just at the head of naviga-
ble water. There is an island there in the river, and this was
123 just at the head of navigation, on the right-hand side of this isl-
and, as you go up, just below Mayo bridge.

77. X Q. Is all your knowledge of that machinery you have described as being intended for the Texas, derived from the statements of others?

A. From the statements of others and from the appearance of the vessel herself and the machinery.

78. X Q. What was there about the machinery that indicated that it belonged to the Texas?

A. Its connection with the cranks and the shafting already on board of her.

79. X Q. Was there then some shafting on the Texas?

A. Yes.

80. X Q. How much?

A. I think all the cranks were in there. At any rate there was part of the shafting that was fitted to go with this machinery found in this machine shop.

81. X Q. You have spoken, in speaking of the machinery, of numerous engines and small engines, etc. Do you mean to say that all that was machinery of the Texas?

124 A. Oh, no; the torpedo-boat's machinery was not for the Texas. I understood that they had destroyed quite a lot of torpedo-boats.

82. X Q. You gave an estimate of the value of the Texas and her machinery. That included such machinery as you understood was intended to be put aboard of her?

A. Certainly.

83. X Q. What was the value of the Texas apart from her machinery?

A. I should suppose the hull of that vessel ought to have been worth from $150,000 to $175,000 at that time.

84. X Q. Do you think it was?

A. I think it was at that time.

85. X Q. "At that time"—you mean just before the close of the war?

A. Yes. Of course when the war ended and there was no further use for that kind of truck, it went down to almost nothing.

86. X Q. The Beaufort was an old canal-boat, was she not?

A. No.

87. X Q. What was she?

A. She was an ordinary tug boat. She would draw, perhaps,
125 eight or nine feet of water with her coal on board.

88. X Q. When were you first aboard the Texas?

A. So far as I remember, I did not go on board the Texas until she was down at Norfolk.

89. X Q. Then, when you saw this machinery and cranks which you judged were intended for the Texas, you had not been aboard of her?

A. I judged the machinery was for the Texas from the fact that that machinery, as I was informed, was to have been put in her just as she was seized.

90. X Q. Then you didn't form the opinion that it was the Texas machinery until after you had seen her down at Norfolk?

A. No; that inference was confirmed by Major Williamson's statement.

91. X Q. You said that the movement up the James was not a concerted movement between the Army and the Navy; that is, so far as you know. It may have been between the commanders-in-chief
126 and Admiral Farragut?

A. I think not, from the nature of the case.

92. X Q. But you have no knowledge on that subject?

A. No absolute knowledge; no, sir.

93. X Q. You spoke of a lot of naval timber. Where was that?

A. It was found lying on the wharf or in the navy-yard at Rocketts.

94. X Q. Where was the rebel foundry of which you have spoken?

A. That is the place where I found this machinery-foundry or machine-shop; I don't know what the title of it was. There was an ordnance department right alongside of it, too.

95. X Q. If any witness has testified that "on approaching Richmond the Monticello was in advance, and kept in advance until we grounded at Rocketts, two miles below Richmond," you think he is in errror?

A. I don't say that, I simply say that my memory with regard to the Monticello, is a blank.

127 96. X Q. You are clear that the Monticello didn't get above the last obstructions before you?

A. Yes, I am clear that she did not.

97. X Q. And you are clear that the Texas was not moored to the bank when you first saw her?

A. Yes.

98. X Q. Do you know whether she had her guns on board?

A. She had not.

99. X Q. Was she in fighting trim?

A. She was not.

100. X Q. Is it true that either the Texas or the Beaufort was taken possession of by any man belonging to the squadron as early as the 2d of April, 1865?

A. I should think not; I don't see how that is possible. I think whoever has stated that must be mistaken as to the date.

101. X Q. You got to Rocketts on Wednesday morning?

A. It must have been Wednesday morning that I got there.

Redirect.

42. Q. Is the log of a vessel conclusive in respect to everything
128 it contains, and are the officers of the vessel bound to be governed by it, and is it not kept by different officers—subordinate officers of the vessel?

(Objected to.)

A. We keep on every ship a log slate; that slate is kept on deck or in an accessible place, and the occurrence of the watch are noted on this log slate from time to time—generally at the expiration of each hour; and at the expiration of the watch it is the duty of the officer of the watch to examine the log and see if the statements therein are correct; if they meet his approval he puts his initials underneath them. This log slate is so fixed that it runs through 24 hours, sometimes 12 hours; 12 hours is generally the case; and at the expiration of the 12 hours, generally about noon, the log slate is copied into what is called the "rough log" by one of the writers of the ship; some subordinate. Then it is, or should be, at intervals—sometimes a week elap-
129 ses—according to the exigencies of the service, examined by the officers, who sign their names where their initials are placed in this rough log, provided the statements in the log meet their approval; if not they change them to suit the facts. This rough log is afterwards copied into what is called the smooth log; which smooth log is sent to the Navy Department and there preserved. The statements in the log are not regarded as conclusive, and in fact are often erroneous, though I should say that presum'tively the statements there contained are correct.

Recross:

102. X Q. And where the log contains a statement of hours in the day

as of an occurrence or occurrences taking place, is it not more likely to be correct than your recollection after this lapse of time?

A. Certainly it is.

103. X Q. And the log is always intended to state the transactions correctly?

A. Certainly.

130 104. X Q. And no officer will forward the log to the Navy Department unless he believes it so to be?

A. That is true. If I found statements made in any log book, I should be very apt to think they were correct.

Adjourned at one p. m.

131 NEW YORK, *July 17th*, 1876.

Pursuant to adjournment, parties present:

1. Q. State your name, age, residence, and occupation.

A. My name is Alexander Henderson; my age, 44; occupation, chief engineer of the United States Navy, at present on duty at the Brooklyn navy-yard.

2. Q. Where were you in the latter part of March and the fore part of April, 1865?

A. I was chief engineer of the flagship of the James River division of the North Atlantic fleet in front of the batteries and obstructions in the James River, below Richmond.

Q. Please state what knowledge you have of the operations of the North Atlantic squadron at that time before Richmond on the James River.

A. To the best of my recollection I was on the flagship Onandago of that division, on Sunday or Monday, I am not sure which, in the early part of April, when news was received of the movement
132 of the enemy from Richmond being in contemplation. Shortly afterwards I was on board of the flagship Malvern, and received orders from Admiral Porter to go on board the Monticello and proceed up the James River in her, and that Captain Gorringe would give all the assistance possible to remove the obstructions. I went up in that vessel, I think, as far as Drury's Bluff, or Fort Darling; was at work there for some time with torpedoes, in removing the obstructions to allow the fleet to pass through. Several vessels passed through, one of which was a double-ender, formerly a ferry-boat; the other was the Maumee. Some tugs belonging to the fleet, with fleet-captain Breese on board, had previously gone through. While employed there, Admiral Porter came up with President Lincoln. They were detained at the obstructions by one of our double-enders, which had grounded; but as soon as she was hauled off, Admiral Porter proceeded to Richmond with the President, and I was directed to tow their boats
133 up. This I did, landing below Richmond. The tug that was assisting the removal of the obstructions and several of the torpedo boats were ahead of us. I continued in Richmond for some time, securing naval property for the government, of which there were very large quantities at the machine shops and torpedo stations, and also at the Tredegar Iron Works; I remember distinctly the tug Beaufort. She was in good condition, and, with the exception of a few repairs, was ready for service. She was an armed Confederate vessel, and was afterwards taken possession of by the officers of the Maumee, placed in commission, and, I think, used by our Navy; for how long, I do not know. The Beaufort was on the ways when she was captured, and nearly if not ready to be launched. On our way up the river we saw and went on board of the ram Texas, that was moored, if I recollect,

to some piles driven in the river bank. She appeared to be a perfectly
new vessel; was perfectly new. I think that she had some iron on
board of her, part of which, I think, was fastened to the forward
134 end. She also had on board a large quantity of lumber and tim-
ber. This vessel was afterwards taken possession of, I think, by
the officers of the Maumee and sent to Norfolk. Her machinery was not on board, with the exception of the propellers and shafting. The engines, consisting of two pairs of horizontal marine engines, were found by me at the Richmond naval works. They were all ready to go on board, and were very complete in all their parts. They were taken afterwards to the Norfolk navy-yard, being marked "Property captured by the United States naval forces." There were also a number of other engines there; some belonging to tugs, small gunboats, and others to torpedo boats. These were also similarly marked and sent to Norfolk. There was a large quantity of engineers' stores similarly disposed of. The boilers, I think, were at the Tredegar works, but I am not positive.
These were also surveyed and marked as above. They were
135 marked under my direction. The officers, I think, that did this
work, *was* Second Assistant Engineer Nicoll and Curtis Stanton.
Second Engineer Nicoll is now attached to the Mayflower, due in New York about the 27th of this month. Second Assistant Engineer Stanton resigned from the service and is now at the Highland Iron Works, Newburg, N. Y. There was a large quantity of boiler plate also among the property captured in Richmond, and a great number of wrought-iron and copper torpedoes, with fuses and other apparatus belonging to such instruments of war, which were marked as captured by the United States naval forces and sent to Washington. The marking and forwarding of this property to Washington and Norfolk was made under the order of the senior officer, who was present at Richmond. I do not remember now whether it was Commander Parker of the Maumee, or Commander Radford, who, I think, was in the Phlox.

4. Q. Who was in possession of the Texas when you saw her?

136 A. I do not think there was anybody on board at the time.
One of the Navy tugs had been on board of her and left, and steamed up the river towards Richmond.

5. Q. About where did you leave the Monticello and in what kind of a boat, or in what boat did you go up the river yourself?

A. I left the Monticello, I think, at the Drury's Bluff obstructions and went up to Richmond on a steam launch.

6. Q. This was about what date?

A. I think I was engaged in removing the obstructions on Monday and went up to Richmond the next morning in the boat spoken of.

7. Q. Do you know what vessel first started up the river when the news of the evacuation came?

A. I think the first vessel that started up the river was the Monticello,
Captain Gerringe. I went on board with an order from Admiral Porter
for him to get under way. I think that was the first order issued
137 for the movement of the fleet up; but several armed tugs had
preceded us.

8. Q. About what time of day was this?

A. My opinion is it was early Monday morning, or Sunday morning. The Maumee followed immediately after the Monticello.

9. Q. Did any firing take place between the forts or vessels of the enemy and the North Atlantic squadron, on the 1st, 2d 3d, 4th, or 5th of April? If so, what was the extent of it?

A. There was constant firing from the iron-clads against the shore batteries, and I think that this firing was kept up certainly until the evacuation of Richmond; and my impression is, even later than that. I think the batteries about the obstructions in the James River were about the last evacuated by the enemy; although I think it all occur'ed within a very short time.

10. Q. Was there any firing between your vessel and any of the forts of the enemy?

A. I think there was, although I cannot positively say.

138 11. Q. How long have you been an engineer in the Navy?

A. 25 years.

12. Q. What is your judgment of the value of the Texas as she then stood?

A. The Texas was a new vessel, and had a large quantity of material on board of her, both lumber and some iron. My opinion is, that that vessel could not have been built and completed in the condition that we saw her for less than $250,000, even if it could have been done for that sum.

13. Q. I mean her value as she then stood?

A. Her value as she then stood.

14. Q. At what stage of completion must a war vessel like the Texas have reached before she could be launched?

A. She was all ready for putting on her armor and receiving her engines and internal fitting.

15. Q. Was there any difference in the price of machinery, such as that built for the Texas, between the 1st of April and the first of July, 1865?

A. No, sir; I don't think there was; I don't think its value had deteriorated.

139 16. Q. About how near the water's edge was the Beaufort when you saw her on these ways?

A. She was hauled upon ordinary ways; probably directly on the water's edge. For all I knew, her stern may have been partly in the water.

17. Q. In your judgment, what was she worth as she then was, for war purposes?

A. I suppose the machinery of the Beaufort was worth about 13 or $15,000. The hull was worth as much more. This is independent of her fittings for her guns and the war material that was on board of her.

19. Q. Were there any other captures made by the North Atlantic squadron, at this time on the James, besides the machinery, etc., you have spoke of, and the Beaufort and Texas?

A. Yes, sir; there were numerous engines and appurtenances for steam machinery of vessels building for the Confederate Navy; and there was also a large number of torpedoes and torpedo apparatus,
140 and also the guns intended for the Texas, and other naval materials, and a large quantity of lumber, part of which, I think, was sent to the navy-yard in Norfolk.

20. Q. Where were these various articles located when captured?

A. I think that the steam machinery was at an old shop, formerly a private establishment, in Richmond, but then known as the Confederate naval machine shop. The torpedoes and all those appurtenances were at the naval establishment that had been under the charge of Lieutenant Brook of their service, and the guns were at the Tredegar Iron Works. I remember asking regarding those guns, and was told at the Tredegar Iron Works that they were intended for the Texas.

(Mr. Bliss objects to what was told witness, and moves to strike out that portion of his answer.)

21. Q. Did you go on board of the Beaufort; and, if so, for what reason?

A. I went on board of the Beaufort for the purpose of looking 141 at her machinery and seeing in what condition it was; and when Commander Parker of the Maumee came up I told him that it would take very little to get her ready——(what the witness told some other officer of the Navy objected to)——and I officially reported to him its condition—that it would take very little to put it in order for service. He sent parties to the Beaufort for that purpose, and she was put in order by the engineer of the Maumee.

22. Q. How long was the North Atlantic squadron engaged in watching the rebel fleet in the James River, or about how long?

A. For that matter all through the war; and the ship to which I was attached—the Onondaga—was at the obstructions for over a year previous to the capture of Richmond.

23. Q. About how many encounters, either engagements or skirmishes, did the North Atlantic squadron have with the rebel fleet in the James River?

142 A. Almost immediately after our arrival at the obstructions the enemy commenced the erection of batteries, and fire was kept up, off and on, for over a year.

24. Q. What was the extent of the firing between the Confederate land batteries and the North Atlantic squadron, or the Confederate vessels on the James River, between the 31st of March and the 5th of April, 1865?

A. I feel confident that we were engaged in shelling the rebel batteries about the 31st of March, and kept it up until the fleet passed through the obstructions and went up the river.

25. Q. Was all the property you referred to as being captured or taken possession of by the North Atlantic squadron public enemy property?

(Objected to.)

A. All the property that we took possession of and marked as property captured by the United States naval forces was property belonging to the enemy. In no case was any private so marked.

143 26. Q. Was there any difference between *between* the value of such property for war purposes at the time of its capture and the 1st of August, 1865; and, if so, what? State, if you can, what *what* percentage of depreciation there was, if any, for war purposes.

A. I don't think there was any depreciation whatever in the value of that property, except in the one fact that it might not be as much needed for war purposes on the 1st of August as it was at the time of its capture. That machinery was especially valuable because it was applicable for merchant ships as well as for men-of-war. If it had been offered for sale during that summer I think it would have brought a high price.

27. Q. Was any of this machinery or material afterwards used by the United States Navy?

A. I do not know. I think the engines were kept in the Norfolk navy-yard for a long time, and whether they are now or not I do not know. The torpedoes were sent to the Washington yard, and I think are there still, or at Newport, Rhode Island, perhaps.

144 28. Q. Was the advance of the North Atlantic squadron up the James River in pursuit of the enemy's vessels at the date spoken

of the result of any agreement between the commander of the Army and naval forces thereabouts at that time?

A. I have no way of knowing what concert of actions there might have been between the land and the naval forces; but the advance of the Navy, I believe, led to the destruction (any statement of what the witness believes objected to) of the iron-clads, and the destruction of a great deal of property below Richmond. We were not assisted in any way by the Army in our advance, nor in taking possession of the Texas, the Beaufort, or the other property belonging to the enemy.

29. Q. At the time of the evacuation of Richmond, was there anything besides the North Atlantic squadron to prevent the escape of the Confederate fleet?

A. There was not; and had it not been for the presence of the United
States monitors and other vessels in the James River, the Confed-
145 erate iron-clads and other naval vessels could have come down
and taken, and for a time kept, possession of the river, thus separating the United States Army that were on the north and south bank, and preventing the bringing up of transports and supplies to City Point, and other communications of the Army. Just before that the Confederate iron-clads and other vessels came down, some of them passing through the obstructions, and if it had not been for the United States fleet the' would have gotten possession of the river, as stated above.

30. Q. Was all of the public property captured by the North Atlantic squadron at Richmond at this time under your supervision, or were there other officers having charge of portions of it? Have you stated all of the property taken by the North Atlantic squadron at that time?

A. I have stated all of the property that I can remember at this time.
Commander Parker, of the Maumee, was the officer in command,
146 and had charge of this property. The work that I did was
subordinate to him, if I remember, as the senior naval officer
present.

31. Q. Was there not a great deal of machinery and other materials sent by other officers besides yourself of this captured property?

A. I think that what I have stated was but a small portion of the entire property that was captured there. The armor that was intended for the Texas, and a great deal of war material, as guns, etc., etc., were all sent down, of which I had neither knowledge nor control.

32. Q. What was the character of this machinery; was it English or American manufacture?

A. The machinery of the Texas was of English manufacture, having been taken from the blockade-runner Kate. The machinery for the other vessels and torpedo boats was of naval manufacture, by the Confederate authorities in Richmond.

33. Q. On the 26th day of May, 1865, you made a report to Rear-
147 Admiral Radford, commanding the North Atlantic squadron, in
which William L. Nicoll and Curtis Stanton joined, wherein you
appraised certain machinery captured by the North Atlantic squadron in April, 1865. In making such appraisement did you make allowance for stealings, and losses and accidents that might have occurred between the date of its capture and the time when you appraised it, and did you make any allowance for shrinkage in value?

A. Too long a time has elapsed since then for me to answer distictlyn yes or no to that question.

34. Q. Was there not some depreciation in value of this machinery,

for war purposes, between the date of its capture and the date of its appraisement, and, if so, about what percentage?

35. Q. The value of that machinery depended very much upon the war necessity for its use, and 30 days after the capture of Richmond it was not as valuable, as the war, at that time, had virtually closed, and there was not the immediate necessity and use for it.

148 36. Q. Were there any other naval stores captured by the North Atlantic squadron at this time?

A. A very large quantity of naval stores, both that appertaining to steam machinery and that appertaining to iron-clads and torpedoes and general purposes. It was captured by the North Atlantic fleet at Richmond, at the Tredegar works; at Brook's torpedo works; at the naval machine-shop; at the ship-yard where the Texas was launched; at the railway where the Beaufort was; and a great deal of it I had the charge of sending away; and a large quantity was sent away, of which I had no knowledge or charge. It was sent from there, I think, to the Washington and Norfolk navy-yards.

37. Q. Please give the location and character of the obstructions on the James River.

A. The obstructions of the enemy commenced by torpedoes from Howlett's battery around the bend of the river above Dutch Gap, and from there up, by heavy batteries, to Fort Darling. They were
149 noticed also laying torpedoes opposite these batteries. At Fort
Darling some of the old New York & Norfolk and Richmond steamers had been sunk, and piles were also driven down so as to prevent the passing through of vessels. The end of a heavy chain was also on shore, which was probably used for a similar purpose.

38. Q. Was Richmond, Va., entirely vacated, and had the United States Army taken possession of everything in and about Richmond, before the movement of any portion of the North Atlantic squadron, or before any firing had taken place between the North Atlantic squadron and any of the land batteries or vessels of the Confederate fleet?

(Objected to.)

A. No, sir; and my reason for saying so is that I think [Mr. Bliss objects to the witness stating what he thinks] that to the best of my recollection Captain Breese arrived in Richmond in a naval armed vessel before its evacuation was completed.

39. Q. Was the James River an arm of the sea, and navigable for
150 ships of 20 tons burden and upwards, and does the tide ebb and
flow at Richmond?

A. Ships of 1,000 tons plied between the city of New York and Richmond before the war, and the trips have been resumed. They are now running. I don't know where the head of tide-water is on the James River, but my impression is it ebbs and flows to the city of Richmond. The James River is an arm of the sea.

Cross-examined:

1. X Q. What day did you go to Richmond?

A. I think on Tuesday morning, if I remember correctly.

2. X Q. You spoke of Fleet-Captain Breese arriving there—did he arrive there before you did?

A. Yes, sir.

3. X Q. How do you know anything about it?

A. Because, before I started for Richmond he had been up and come back again.

4. X Q. Up to Richmond?

151 A. Yes.

5. X Q. As he told you?

A. As I knew by the return of the vessel from there.

6. X Q. How do you know that the vessel went to Richmond?

A. Because she left some officers there.

7. X Q. How do you know where she left the officers?

A. Because after I went to Richmond with Admiral Porter and President Lincoln I met naval officers of the fleet who had come up with him. I saw them at President Davis' house.

8. X Q. When you speak of Captain Breese you mean that he went up on the flag-ship with the President?

A. No.

9. X Q. What vessel did he go up on?

A. He went up on an armed tug. I do not remember her name. Some of those vessels had no names; simply numbers.

10. X Q. When you speak of his returning, to what point did he return?

A. He returned to the obstructions where I was at work, at Drury's Bluff.

152 11. X Q. When you got to Richmond were there any Confederate forces there other than those who had surrendered?

A. No, sir; I think not.

12. X Q. Was the Texas, when you saw her, in charge of any Confederate force or officer?

A. No, sir; she was not. She had been boarded by an armed naval vessel previous to my going on board of her.

13. X Q. Do you know what vessel that was?

A. It was a tug; an armed tug beloging to the U. S. naval fleet.

14. X Q. What vessel do you think you went up on?

A. I think I went as far as the obstructions with Captain Gorringe in the Monticello and remained until the next day, and I went to Richmond, taking up Admiral Porter and President Lincoln.

15. X Q. Where did the Monticello remain; at the obstructions?

A. I do not know positively whether the Monticello came through the obstructions or not; but the Maumee did, and two or three side-wheel vessels.

153 16. X Q. Did you ever see the Monticello up at Richmond or at Rocketts?

A. I remember the Maumee and the Phlox there, but cannot state positively that the Monticello was there.

17. X Q. Is it true that the Monticello was in advance, and kept in advance, of all the naval ships until she grounded on the bar at Rocketts, below Richmond?

A. The Monticello was in advance up to the obstructions; from the obstructions the Maumee was in advance. She ran on a bar, being too far out in the middle of the river, and the other naval vessels passed her at the bar.

18. X Q. Did the Monticello pass up?

A. I do not remember whether the Monticello was among them.

19. X Q. When you went aboard the Texas had she her guns on board?

A. No, sir.

20. X Q. Had she her anchors and those fittings—chains, etc.?

A. I do not remember. I think she was afloat and made fast some piles driven on the shore.

21. X Q. When you state that the fleet was not assisted by the

154 Army, do you mean that the entering of Richmond by the Army did not cause the abandonment of the batteries below Richmond on the River—did not necessarily cause that, by cutting off their communications?

A. No, sir; I do not think that the entering of Richmond by the Army necessarily caused the abandonment of the batteries on the south bank of the river. I think that those batteries would have been held by the Confederates had it not been for the presence of the naval fleet in the river.

22. X Q. Did not the occupation by the Army of Richmond and Petersburg—that region—practically isolate those batteries?

(Objected to.)

A. I don't know enough of the topography of that country to answer that question. It isolated the batteries on the north bank. I don't think it did on the south bank of the river.

23. X Q. When you have stated that the enemy's property was marked, how did you ascertain whether it was enemy's property or not?

155 A. By first determining that it was to be used, or had been used, for purposes of war. We were very careful——

24. X Q. How did you determine that fact?

A. You can tell in a minute; you can tell what a musket is to be used for. We were very careful not to disturb private citizens, their dwellings, or any property belonging to them. Had there been any doubt as to the property, it never would have been touched or marked.

25. X Q. You have spoken of certain firing. When did the last hostile firing, to your knowledge, occur from the batteries on the James or the iron-clads?

A. I cannot speak positively on that subject, but my impression is that the vessel to which I was attached and the other iron-clads were engaged on Sunday night in shelling and firing upon the rebel batteries.

26. X Q. Where were you then lying?

A. The Onondago was then lying at the obstructions in front of the rebel batteries.

27. X Q. What obstructions?

A. The obstructions that were put in the river.

156 28. X Q. I mean whereabouts?

A. Above Dutch Gap, below Howlett's battery.

29. X Q. The Beaufort, was she in the water?

A. She was on the ways when we got to Richmond.

30. X Q. You said her stern might have been in the water; was it or was it not?

A. I think not. She was on the ways.

31. X Q. You gave an estimate of the value of the Texas; did that include the Texas as you saw her, or the Texas with her machinery?

A. The Texas, as I saw her alongside of the bank of the river, without her armor, arms, or machinery; including the material, however, that was on board.

32. X Q. How much did you say you considered her worth?

A. I considered $250,000 as being about the cost that would build and launch a similar vessel at that time.

33. X Q. Build her up to that point?

A. Build her up to that point.

34. X Q. You spoke of towing up Admiral Porter; you say you did that on a tug?

157 A. A steam launch. Admiral Porter did *did* not go immediately up to Richmond. He waited to accompany the President.

35. X Q. The Beaufort, she was an old canal boat, was she not?

A. No, sir.

36. X Q. What was she?

A. She was a steam-tug that had been converted into a vessel-of-war.

37. X *A*. Not a canal boat at any time, you think, or converted from a canal boat?

A. She was not, in the term, a canal boat.

38. X Q. She had one gun—fitted for one gun?

A. I do not remember the armament of the Beaufort. That she was in commission I have no doubt, because there were evidence of persons living on board.

39. X Q. Whatever her armament was, did she have any of it on board?

A. I think the Beaufort had a gun forward, and was being prepared for other guns aft, being strengthened by Graves.

Redirect:

40. Q. Whom did you find in or about the Beaufort when you went on board of her the first time?

158 A. There was a number of people there, one of whom, I think, was the man who had charge of the railway. I do not remember his name. There was a great number of negroes about her. I saw Mr. Graves in Richmond, but do not remember whether it was at the railway, where the Beaufort was, or not.

Adjourned to Tuesday.

ALEXANDER HENDERSON,
Chief Engineer, U. S. Navy.

Sworn to before me.

JOSEPH GUTMAN,
United States Commissioner S. D. N. Y.

July 18, at 12 m.
Session from 12 m. to 1.30 p. m.

NEW YORK, *July* 18th, 1876.

Pursuant to adjournment, parties present.

JAMES PARKER recalled.

Redirect examination continued by Mr. CORWINE:

(The witness here produces the exhibit referred to in his direct examination.)

159 Q. You speak of the North Atlantic squadron having captured the Fredericksburg. Please state what the value of that vessel was at that time?

A. The Fredericksburg, as I have already stated, was sunk in the river, and partly out of water, opposite Chapin's Bluff. She was, as I remember, complete with her armor on, and I should judge her to have been worth, if she had been afloat, not less than $250,000?

44. Q. If a man was within about 300 feet of the guns at Drury's and Chapin's Bluffs, on Sunday, the 2nd of April, 1865, and within about 3 miles, in an air line, from Howlett's battery, could he not have seen the Federal fleet?

A. I will say, in reply to that question, that, as I remember the situation of those batteries and their distance from each other, it was not possible for any person to occupy any such position at one and the same time. Chapin's and Drury's Bluff, as I remember, are certainly more than half a mile apart, and Howlett's I should suppose to be not less than six miles from either, in a straight line. From Howlett's battery he certainly could have seen the vessels.

(*I desire to put in evidence in this connection of distances on the river, a chart or map of this river between City Point & Richmond, wherever I have made marks & statements of distances, which map is marked Exhibit F.—JAMES PARKER.)

160 45. Q. I say within three miles of Howlett's battery?
A. Three miles is a good long distance to see a naked spar sticking up. I should say that, if he were not closer than three miles to the vessels he would not probably have been able to see them, inasmuch as the vessels that had spars had nothing but naked spars. It would be like looking at a telegraph pole.

46. Q. If he were within 300 feet of either Chapin's or Drury's Bluff, on the 2d day of April, could he not have seen the vessels of the North Atlantic squadron?

A. I should think he could not have seen them, because, as I have already stated, it would be impossible, in my judgment, to see the spars of the vessels at that distance. The vessels were stationed on the 2nd of April (which was Sunday) below the obstructions which had been placed in the river, as I have already affirmed, below Howlett's, just
above the lower end of the Dutch Gap Canal. The bank there
161 was high; the vessels had no spars no yards across, and whatever masts they may have had on end, were just simple sticks, and would hardly have been visible at a much shorter distance than three miles.

47. Q. Could five or six thousand troops have been conveyed across the river from Rockett's to Manchester from Monday at 10 o'clock, April 3d, to Tuesday at 12 o'clock, April the 4th, by one or two steamers?

A. Well, I think they might, in all that time.

48. Q. Were there bridges near Richmond across the river?

A. There was a bridge, in good order, about a mile and a half below Rocketts, in plain sight of Richmond.

49. Q. Was there any necessity for the conveyance of troops across the river between Rocketts and Manchester on the 1st, 2nd, 3rd, or 4th of April, 1865, and could they not have crossed this bridge you speak of?

(Objected to.)

A. If I were to express my opinion I should say there was not any necessity. They could have crossed that bridge.

162 50. Q. Could not five or six thousand troops have crossed this bridge in quicker time than it would have taken them in vessels?

A. I should think 25,000 men could have marched across that bridge in 4 hours without much difficulty.

Recross:

105. X Q. As to the Fredericksburg, did you ever see her above water?

A. No; I never did.

106. X Q. How much of her was under water when you saw her?

A. I should suppose half. She was lying on her side.

107. X Q. Was she a wooden or an iron vessel?

A. She was a wooden vessel with iron plating on her.

108. X Q. Do you know whether her hull was entirely plated?

A. The part that was visible was entirely plated.

109. X Q. You don't know what it was below?

A. Well, no; but I can assume pretty well.

110. X Q. Had she her machinery on board?

A. As to that I don't know.

111. X Q. Had she her guns on board?

163 A. As to that I don't know.

112. X Q. Was she finished?

A. She seemed to be finished; yes.

113. X Q. In stating her value at the sum you have given, do you assume her to have been finished?

A. Yes.

114. X Q. And to have been raised—floated?

A. Yes; that is what I stated—afloat.

115. X Q. And to have been when floated in good condition?

A. Yes.

116. X Q. And to have had her machinery on board?

A. Yes.

117. X Q. And her armor?

A. Yes.

118. X Q. You never were on her?

A. No.

119. X Q. You saw her simply as you passed her going up?

A. I don't remember having been on her, although I have an indistinct recollection that I afterwards was.

120. X Q. Your opinion is formed from what you saw in passing her going up the river?

164 A. Going up and coming down backwards and forwards frequently.

121. X Q. She was always under water?

A. Always in the same state. She was not raised while I was in the river.

122. X Q. Have you stated how far Drury's Bluff and Chapin's Bluff were from the position of the ships on that 2nd of April—how many miles?

A. I should think that it was not less than 6 or 7 miles from the one above, from what I remember of it.

123. X Q. And Howlett's was further still?

A. Howlett's was further still from what?

124. X Q. From the ships?

A. Oh, no; Howlett's was nearer.

125. X Q. How near was Howlett's to the ships?

A. From the place where the ships were ordinarily lying?

126. X Q. Yes; as you recollect it, on that night.

A. I mean the up-river division of the fleet. The nearest ship, I should suppose, from that to Howlett's battery was perhaps a mile and three-quarters.

JAMES PARKER.

Sworn to before me.

JOSEPH GUTMAN, Jr.,
U. S. Commissioner, S. D. N. Y.

Met at 2 p. m. Adjourned at 3 p. m.

165

EXHIBIT A.

U. S. STEAMER MAUMEE,
Richmond, Va., May 9, 1865.

SIR: Proceed to morrow morning, at early daylight, in the "Beaufort," to the navy-yard, Norfolk. You will take in tow the schooners M. E. Banks (having machinery on board), the barge and hull of the Torpedo. Tow these vessels, with all convenient speed, to the navy-yard. Anchor during the night while on the way.

Upon arrival at the yard, report to Captain J. M. Berrein, and deliver to him the property on board the vessels, the barge and hull of the Torpedo. Having performed this duty, return in the Beaufort to this place, unless otherwise directed by proper authority.

Respectfully,

JAMES PARKER,
Lt. Com'd'r, Senior Officer.

Mate HENRY FOLY or TOBY,[*]
U. S. Navy.

(On the margin:) James Parker.

166

EXHIBIT B.

U. S. STEAMER MAUMEE.
Richmond, Va., May 29, 1865.

SIR: I have the honor to forward prize-list of the officers and crew of this vessel, for captures made while she was within signal distance on April 4th, 1865, viz:

1st. For rebel iron-clad Texas.

2d. For rebel iron-clad Fredericksburg, now scuttled near Chapin's Bluff.

3d. For rebel steamer Beaufort.

4th. For hull & machinery (partially burnt) of rebel steamer Torpedo.

5th. For engines, boilers, & machinery of various kinds captured at rebel naval machine shop in Richmond, Va.

6th. For steam tug Seaboard, of Richmond, captured near Drewry's Bluff.

Very respectfully, your obed't serv't,

JAMES PARKER,
Lt. Com'd'r.

Hon. GIDEON WELLS,
Secretary of the Navy.

(On the margin:) James Parker.

167

EXHIBIT C.

U. S. STEAMER MAUMEE,
Richmond, Va., May 9, 1865.

SIR: I have the honor to inform you that, in obedience to orders from the rear-admiral commanding the N. A. squadron, I have this day sent to the Norfolk yard under your command, the articles enumerated in the accompanying report A. These articles are sent by the schooner

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[*] The name not legible in the letter-book from which above is copied.
JAMES PARKER.

M. E. Banks, which has been chartered for the purpose, and another schooner captured here.

The M. E. Banks is chartered at so much for bringing the things down and so much per day additional for each day she is detained after arrival at the navy-yard. It is important, therefore, that she be discharged as soon as convenient.

Very respectfully, your obed't serv't,

JAMES PARKER,
Lt. Com'd'r & Senior Officer.

Captain JNO. M. BERREIN,
Com'd'r Norfolk Naval Station.

168 EXHIBIT D.

U. S. STEAMER MAUMEE,
Richmond, Va., May 6, 1865.

ADMIRAL: I have the honor to enclose—

1st. Duplicate reports of machinery sent from the machine-shop of the (late) rebel Navy Department. One for the Navy Department in compliance with the order issued (while in command) by Rear-Admiral D. D. Porter.

2d. Charter party of schooner M. E. Banks chartered by me to transport the machinery, I have respectfully to request your approval to be endorsed upon this and its duplicate, the latter in the possession of the master of the M. E. Banks.

3d. A list of articles remaining in the shop, which I have not thought it proper to remove, but which the department may decide to have removed in future.

4th. Copy of a lease from Talbot & Brother, of this city, of the aforesaid shop to the rebel Navy Department, with an accompanying letter explaining their title or claim of title to the shop and its machinery.

169 I have not judged it proper that I should attempt to decide upon the ownership of property not clearly that of the rebel Navy Department; but I do think it proper that the attention of the Hon. Secretary of the Navy should be called to the matter; that if the machinery be properly the rebel government property, it may be secured for us. The machinery, as will be seen by the list accompanying the lease, is very valuable, and of the kind which we need for the naval machine-shop at Norfolk. The Messrs. Talbot claim to be and have been Union citizens, and that whatever their relations with the rebellion may have been have been matter of necessity on their part. From what I have seen of them I am inclined to believe them. I have taken no action in regard to the ammunition and ordnance stores of the rebel Ordnance Department. These ordnance stores are of such inferior quality that we
170 could hardly use them in our service. The powder in store at the lab'ratory and magazine is, I am informed by Lieut. R. D. Minn, formerly of our Navy, lately ordnance officer, good. A great many of the shells are for the Brooke guns; but there are some XI by IX in., and some solid steel IX-in. shot that were imported from England. I shall await your further orders in regard to moving the pronance and stores. There is a good deal of timber for ship building, principally white oak, in the two navy-yards. I am not a judge of its quality, and would respectfully suggest that Mr. Hanscom (naval constructor at Norfolk yards), or other competent judge, be sent up to determine whether it is of such character as to make it advisable to send it down to Norfolk. I have secured the tug Torpedo, or rather the

iron part of her hull, and sent it down with the other spoils to Norfolk yard.

5th. I have the honor to transmit prize-lists of all this property.

171 I have been unable, for want of proper means, to raise the tug captured and sunk just below Drewry's Bluff. She is a good vessel and can be easily raised and made serviceable. So far as I am able to learn, the iron-clad Fredericksburg, which is opposite Chapin's Bluff, is merely scuttled and is otherwise in good condition. She is of very light draft, and, although not as formidable as our iron vessels, is a formidable vessel. She can be easily raised, I think.

Very respectfully, your obed't serv't,

JAMES PARKER,
Lt. Com'd'r.

Act'g Rear-Admiral WM. RADFORD,
Com'd'g N. A. Squadron.

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172 EXHIBIT E.

U. S. STEAMER MAUMEE,
Richmond, Va., May 9, 1865.

SIR: I have the honor to transmit herewith a report, made to me by the officer in charge its shipment, of machinery and boilers sent from this place to the Norfolk navy-yard, in obedience to instructions given by Rear-Admiral Porter and acting Rear-Admiral Radford, commanding the squadron.

The condensing engines described in paragraphs 1 & 2, and the boilers in paragraph 9, as 22 ft. by 8 ft. 2 in., are those intended to be placed in the rebel iron clad Texas, which vessel was captured by the squadron in this river on the 4th April last.

The steam hammer engines described in paragraph (4) were taken by the rebels from the U. S. steamer Reliance, formerly captured by them.

Very respectfully, your ob't serv't,

JAMES PARKER.
Lt. Com'd'r.

Hon. GIDEON WELLS,
Secretary of the Navy.

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173 UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, Joseph Gutman, jr., a commissioner duly appointed by the circuit court of the United States for the southern district of New York, do hereby certify that the foregoing are the depositions of the witnesses examined before me, under and pursuant to the notice hereto annexed, in the cause in the said notice named; that the said witnesses were of sound mind and lawful age, and were by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, and their depositions were thereupon duly reduced to writing in part by myself and in part by a sworn stenographer by agreement of counsel, from the statements of the witnesses.

In witness whereof I have hereunto set my hand and seal this 31st day of July, 1876.

[SEAL.] JOSEPH GUTMAN, JR.,
United States Commissioner, Southern District of New York.

173½ In the supreme court of the District of Columbia.

UNITED STATES, ON BEHALF OF OFFICERS, &c.,
vs.
SHIP OF WAR TEXAS, &c., AND SEABOARD, &c. } Admiralty No. 268, 269.

Take notice that on Thursday, the 13th day of July, 1876, at 12 o'clock on that day, at No. 5 Law B'ld'g, 5th street, I will proceed with the examination of witnesses in the above case, before Frank T. Browning, esq., an examiner of this court, and that such examination will be continued from day to day.

You are notified to be present and cross-examine the witness, if you see fit.

July 10th, 1876.

ENOCH TOTTEN,
Q. CORWINE,
Proctors for Captors.

Copy of the above, served on Ass't District Att'y Wells, July 10th, 1876, by leaving the same in his office.

FRANK T. BROWNING.

Filed June 11, 1876.

174 In the supreme court of the District of Columbia.

UNITED STATES, ON BEHALF OF OFFICERS, &c.,
vs.
SHIP OF WAR TEXAS, &c., AND SEABOARD, &c. } Admiralty No. 268, 269.

DISTRICT OF COLUMBIA,
County of Washington, ss:

Be it remembered, that at an examination of witnesses begun and held on the 13th day of July, 1876, at 12 o'clock m., at the office of Enoch Totten, Columbian Law Building, of that day, pursuant to the annexed notice, and concluded on that day, where the within deposition was taken.

Frank T. Browning, an examiner in chancery, did first duly swear John Brennon, and reduce to writing his deposition given in the above case, and hereto annexed.

FRANK T. BROWNING,
Ex'r in Chancery.

175 In the supreme court of the District of Columbia.

THE UNITED STATES, IN BEHALF OF OFFICERS, &c.
vs.
SHIP OF WAR TEXAS, &c., AND SEABOARD, &c. } Admiralty No. 268, 269.

JULY 13, 1876.

Pursuant to the annexed notice, present Ass't District Att'y H. H. Wells, jr.; Enoch Totten & witness.

Mr. Wells, counsel for the United States, objects to the introduction of any testimony in case numbered 268, for the reason that said case now stands dismissed, & to the introduction of any testimony in case numbered 269, because, 1st, only two days' notice was given of taking the same; and, second, the notice did not specify the names of the witnesses.

JOHN BRENNON, a witness of lawful age, being first sworn in behalf of libellants, deposes and says:

My name is John Brennon; reside at 2210 I street in the city of
176 Washington & District of Columbia; am a contractor. In April,
1865, I was commanding officer of the Spuyten Duyvel (a torpedo boat) of the North Atlantic squadron, in the James River at that time. We went up the river in May, 1864, & watched the rebel fleet from that time till the fall of Richmond. During that time we had three or four fights with the rebel fleet, & frequently exchanged shots with them; the last engagement was about a month before the destruction of the rebel fleet; they came down to our obstructions at that time, and we engaged them for several hours, and we drove them back up the river; one of the fleet came through the obstructions, & we drove her back. On Sunday night, the 2d of April, 1865, we opened fire on the river towards the rebel fleet, but whether we struck them or not I do not know. On Sunday night, the 2d of April, 1865, all the iron-clads opened fire in the direction of the rebel fleet & batteries and the firing continued, I think, about two hours; whether they returned the fire or not I do not
177 know, but I don't think they did; it was in the mid watch between 12
& 4 o'clock in the morning. We were located near our obstructions near the Howlett house battery. My ship was a short distance in advance of the others. The iron-clads were armed with fifteen-inch guns & two-hundred pound rifle cannon.

Q. What kind of projectile did our fleet throw at the rebel fleet?

A. It was customary to use shell in that kind of action, & it was only when we were in close action with iron-clads that we used solid shot.

(Mr. Wells objects to the above answer.)

I am uncertain as to the day that our fleet passed through the rebel obstructions, but my impression is it was on Tuesday. I did not hear the explosions occasioned by the blowing up of the rebel fleet, it occurred during the mid-watch and was reported to me by the officer on watch. It was on Monday morning between 12 & 4 o'clock. I think the explosion took place shortly after the firing of our fleet ceased. I don't
178 remember what vessel passed up first. We were engaged in clean-
ing and buoying a channel through our obstructions, and several vessels passed up while we were there engaged. It was about noon that we went up the river.

Q. How large a vessel can navigate the James River to Richmond?

A. Ocean steamers of large size can go up to Richmond. I went up on one of about 2,500 tons; how much larger one can go up I do not know.

Q. When Richmond was evacuated by the rebel army, what was there to prevent the escape of the rebel fleet down the river?

A. The North Atlantic squadron was there to prevent them and nothing else that I know of. The James River was about two or three hundred yards in width where the rebel obstructions were placed, the river varies very much in width; in some places it is two or three miles wide. I don't think the tide ebbs and flows as far as Richmond. I do not know positively as to that. I first saw the rebel ram "Texas" near the bridge.

179 Q. Whose duty is it on vessels of this description to keep the log book?

A. The navigating officer.

Q. Who is the navigating officer?

A. He is a subordinate officer ordinarily the third officer in rank.

(Mr. Wells objects to the last question and answer.)

Q. Does the commanding officer ever make the entries in the log book?

A. The' do in some cases, on very small vessels.

(Mr. Wells objects to the question and answer.)

I was in Richmond immediately after the surrender.

Cross-examination by Mr. WELLS:

We went above a bridge in the James River. I don't remember whether the Texas & Beaufort were above or below that bridge. There was a draw in the bridge. I only remember of that one across the James River, below Richmond, at that time. The Federal obstructions were about six or seven hundred yards below the Howlett House battery, and the Confederate obstructions were at Fort Darling, about 180 half a mile from Drury's Bluff; my recollection of distances are not very distinct. When I saw the Texas she was on the right-hand side of the river going up. The Beaufort was on the other side of the river. I think they were both below the bridge. The Beaufort was not on the land, she was in the water. I think I saw a submarine railway on the Manchester side of the river. My impression is the Beaufort was not on the railway.

Q. What species of a vessel was the Beaufort?

(Objected to as not being responsive to the direct examination.)

A. She was a large size tug-boat, commonly known as an ocean tug-boat. I saw her on my way up to Richmond. I could not say exactly where she was, there was so much excitement. I saw the Texas on my way up to Richmond. One was on one side the other on the other, nearly opposite each other, as nearly as I recollect. How far they were from the place, I do not know; I think by land it was about four 181 miles, at least ten by water. The firing took place about the lower mouth of the Dutch Gap Canal. I am uncertain as to the day that I saw the Texas and Beaufort, but my impression is it was on Tuesday. I don't think there was a Confederate battery at the upper end of the Dutch Gap Canal. The Texas and Beaufort were above Drury's Bluff.

Redirect by Mr. TOTTEN:

Q. What was the distance between the point occupied by our fleet on Sunday night, the 2d of April, 1865, & the point usually occupied by the enemy's fleet?

A. About four miles in a direct line.

Q. How far can you use the guns on board our iron-clads with effect?

A. I think about five miles; that is the distance they usually carried effectively.

JNO. BRENNON.

182 DISTRICT OF COLUMBIA,
County of Washington, ss:

I, Frank T. Browning, examiner in chancery, do hereby certify that, in pursuance of notice given, the foregoing deposition was made & taken down and by me reduced to writing, in the presence of and from the statement of the witness at the time and place designated in the caption thereof, and was then and there read over by said witness, and by him subscribed in my presence and the presence of counsel, who were then and there attending, the witness having been by me first duly sworn to testify the truth, the whole truth, and nothing but the truth, touching the matters at issue in said cause.

I further certify that I am not of counsel for any of the parties to said cause, or in any manner interested therein.

FRANK T. BROWNING,
Ex'r in Chancery.

Filed Sept. 4, 1876.

183 In the supreme court, District of Columbia.

UNITED STATES, IN BEHALF OF CAPTORS,
vs.
REBEL IRON-CLAD RAM TEXAS & OTHER vessels.
} No. 268 & 269.

Notice is hereby given that, at ten o'clock a. m., on the 27 day of October, A. D. 1876, the following-named witnesses, and such other witnesses as may be produced, will be examined, and the examination continued from day to day until completed, and their depositions taken, to be used on the trial of said cause, on behalf of the captors, before Samuel Bell or any other U. S. court com'r who can be found to act, at the office of Mr. E. Z. Brailey, 625 Walnut street, Philadelphia, to wit, Donald McKay, James Smith,   McKay.

ENOCH TOTTEN &
Q. CORWINE,
Proctors for Claimants, Law Building, Fifth st., Wash., D. C.

To the U. S. att'y, D. C.

I move service of the above notice this 23d day of October, 1876, by leaving a copy thereof with Mr. Griffith, clerk to the U. S. district att'y.

ENOCH TOTTEN.

Mr. H. H. WELLS.

184 In the supreme court of the District of Columbia.

THE UNITED STATES, ON BEHALF OF CAPTORS, &c.,
vs.
REBEL IRON CLAD RAM TEXAS & OTHER VESSELS.
} No. 268 & 269.

PHILADELPHIA, PA., *October* 28, 1876.

Pursuant to notice the taking of testimony was commenced at the office of E. Z. Brailey, room 7, 625 Walnut st., at ten a. m.

Present, Hood Gilpin for U. S.; Enoch Totten for Texas.

NATHANIEL MCKAY, having been duly sworn, was interrogated as follows:

By Mr. TOTTEN:

Q. What is your name, age, residence, and occupation?

A. My name is Nathaniel McKay; age, 45; residence, Philadelphia; occupation, ship carpenter & builder.

Q. In what business were you engaged in the years 1864 & 1865?

185 A. I was building an iron-clad vessel in Boston for the U. S. Gov't, called the Squandle, a light-draft monitor.

Q. How long have you followed the business of ship-building?

A. I went in a ship-yard, commencing in 1848, with my brother, Donald McKay, & served my time with him.

Q. Have you been engaged in the business ever since?

A. I commenced for myself in 1857.

Q. Have you always been engaged in that business since?

A. Yes; until the close of the war. There has been no ship-building since then.

Q. In the controversy involved in these cases, a question occurs as to the value of the rebel iron-clad Texas. Please to look at that paper & state whether you have ever seen it before (handing document to witness).

A. I have.

Q. Have you examined that description of the vessel carefully?

A. I have.

(Paper marked by com'r Ex. 1, McKay, Oct. 28, 1876, W. G. H.)

186 Q. Of how many tons burthen is a vessel of the dimensions of the Texas as given in that paper?

A. I figure the vessel 1,247 tons—old tons.

Q. Did you observe from that paper the materials of which that vessel was constructed?

A. I did.

Q. State whether you have ever built a vessel of that character about the time during which the Texas was built—say from the 1st of October, 1864, to the 1st of April, 1865—or along about that period.

A. I was completing the iron-clad vessel Squandle at that time, & the material had raised about a hundred per cent. from 1863 to 1865.

Q. What, in your judgment, would be the cost or the value of such a vessel as the Texas is described to be, in the early spring of 1865, before the close of the war or the fall of the armies of the Confederacy?

A. I have drawn off a paper as follows: If the vessel was
187 plated & her machinery in, she would cost to construct, ready for
sea, in any northern port, one thousand dollars per ton, including machinery & plating. Without plating & with machinery she would cost five hundred dollars per ton. The vessel is 217 feet long, 48½ feet wide, 13 feet deep, which will equal 1,247 old tons. This, at five hundred dollars per ton, will make the vessel cost $623,500. I sold vessels during the war, of wood alone, for over $350 a ton, & that for river service alone, light side-wheel boats. I built one iron-clad that was 245 feet long, 9 feet deep, & 44 feet wide that cost over $800,000 to the government.

Q. When was she built?

A. The contract was dated June 4, 1863. They never built an iron-clad that cost them less than $800 to $1,200 per ton, & in many cases they cost over $1,500 per ton, and when built in the U. S. yard they cost more. I have been through this iron-clad business more than any man in America.

188 Q. Have you bought the materials that go into the making of a vessel of that character?

A. I have very often.

Q. During the period mentioned?

A. I commenced in 1863, & bought them during twenty-three months all the time.

Q. It is asserted that the machinery which belonged to the ram Texas at the time of her capture was machinery that was built in England & taken from a blockade runner. Assuming that to be a fact, what would such machinery have been worth in the fall of 1864 or the spring of 1865?

A. The size of the cylinder is 26 by 20. Engines of that class during the war cost about $1,000 per inch.

Q. What would be your estimate of the value of the machinery alone for such a vessel as that?

A. Do you mean including the machinery, ready for sea?

Q. Ready to go into the vessel.

A. Well, I think from $60,000 to $70,000, & probably more.

Q. That don't include the engines, does it?

A. Yes; but then it is almost impossible to tell what the ma-
189 chinery would cost during the war, because an engine is a thing
you can't buy all in one day. You have to buy it as your drawings
come. You may buy some boiler iron at five cent' & a half a pound, or some plating, & make a bargain for five & a half cent' a pound, & before you get it all it might be twelve cents a pound, & they would, may be, shut down & wouldn't deliver it; they wouldn't make a contract.

By Mr. **Gilpin**:

Q. So that you can't say what the value of the machinery really was?

A. Oh, yes, I can. If I was to make a contract for the machinery direct, I would make a contract for it. Such a sized engine, I should think, engine, boilers & all, would cost about $75,000.

By Mr. **Totten**:

Q. Do you know anything about the character of the machinery that was taken from blockade runners?

A. I have had most all the blockade runners that were captured
190 —all that came to Boston—at my wharf. The engines were generally very good, but the hulls were very poor.

Q. Is it not a fact that the engines were extraordinarily good?

A. Yes; they had very nice wheels, feathered wheels, & all the engines were very heavy.

(Mr. Gilpin objects to all this testimony, except as to the value of machinery and hull, as specified in the description, as immaterial and irrelevant.)

The Witness. Also all the castings for the engines were very heavy. The boilers, likewise, were very heavy.

Q. Please look at this paper & state whether you have ever seen it before and examined it. (Handing paper to witness.)

A. This was taken in May, 1865, I believe; that was after the war had closed. Now at that time this machinery was of no value at all, only for scrap iron.

(Paper marked Ex. B, McKay, Oct. 28, 1876. W. G. H.)

Q. Assuming that that machinery & the engines mentioned in
191 that paper were taken from a blockade runner, what would you
consider them worth before the collapse of the rebellion—say the 1st of January or the 1st of April, 1865?

A. Machinery made during the war cost 25 cents a pound, & some of it cost 50 cents; it was according to the finish. All classes of machinery were very expensive. I should have to look at the items in that paper before I could state. I should think the schedule there was very low during the war. I should think that it was any price at all for it. At least I wouldn't make it even after the war for this price, because the labor was as high after the war as it was before. Labor never went down any, but material did a little.

Q. Material & machinery taken from a war vessel wouldn't be very valuable after the war, would it?

A. It would be of no value, except for the place for which it was made.

Q. If you were called upon to give a rough estimate of the cost of such machinery, say in the latter part of 1864, what would you say about that?

192 A. I should say that was worth a hundred per cent. more in the small articles than it is now valued at in that list.

Q. What would be the rise in the value of property from 1863 to 1865 up to the time of the collapse of the rebellion?

A. The rise in the price of iron was from 5½ cents to 12 cents per pound, plate iron, & some as high as 14 cents.

Q. How was it in reference to labor?

A. Labor was from $2.25 per day to $4.50, $4.60 & $4.75.

Q. Did those prices prevail through the United States?

A. Everywhere where the gov't work was doing. The gov't commanded everything. They had every yard where they could possibl' build a vessel.

Q. Did anybody build ships, except for the gov't?

A. No. They had all the mechanics they could possibly get. I have paid as high as seven dollars a day for men, & after they got done I wouldn't give them a dollar & a half. They used to stri*ck* on us
193 every morning if we had any other men employed than their society men, & I would go down & have to cave as they were going out of the yard with their tin kettles. The machinists acted very handsomely, but the boiler-makers were very bad fellows.

Q. Suppose that in the fall of 1864 you had the engines, machinery, & all the materials ready to go into a vessel like the Texas, how much would it cost to put it together?

A. Do you mean the machinery alone, without the hull of the vessel?

Q. No; I mean all of it. I am assuming that the hull of the vessel has not been made, but that you have the machinery & your engine there; also your plating & your wood-work, all ready to go into a vessel. Now, how much would it cost to do that?

A. We generally count the labor nearly one-half the cost of the vessel.

Q. At what sum would you estimate the cost of doing the work I mention?

A. Do you mean taking the iron as it comes in the yard & the wood as it comes in the yard & finishing it complete? That would cost
194 between two & three hundred thousand dollars, engine, boilers, machinery, turrets, & everything for the ship.

Q. That would be the cost of putting them all together?

A. Yes. The gov't used to pay us during the war 25 cents a pound for plain angle-iron work, just heated in the fire & bent. That was for any work that we did on iron-clad vessels during the war. Sometimes they would pay us 30 cents & sometimes 33 cents a pound. We would be glad to do it now for six cents a pound. We of course couldn't make much money at it then, because labor was so high and the men wouldn't work. They didn't care whether they worked or not. There was plenty of it to do, & they would be off from one place to another.

Q. At the time we are inquiring about, what was oak timber worth per cubic foot?

A. It was worth a dollar a foot.

Q. What was oak plank worth?

A. About eight or nine cents a foot; superficial foot an inch thick.

Q. What was the value of yellow-pine timber per cubic foot?

195 A. That was worth about 75 cents to $100.

Q. How many kinds of pine are used in ship-building?

A. White pine is used for cabin-work & doors, yellow pine for the ceiling & planking. In all the ships that we built we used yellow-pine timber until the breaking out of the war, and then we could get more after we had used up what we had on hand. We used to have sometimes eight or ten vessels at the wharf unloading yellow pine from the South, but during the war we couldn't get any.

Q. Where does the yellow pine come from?

A. From Florida, Georgia, Darien, the St. John's River, Charleston.

Q. What was the difference in the value of yellow pine between 1861 & 1865?

A. When the war broke out we were cutting yellow-pine timber in the Dismal Swamp Canal for about eighteen to twenty dollars a thousand. After that it was from seventy-five to a hundred dollars during the war. My brother, Donald McKay, had one man who was kept there six months; they wouldn't let him out. It was a foreman whom he had in the Dismal Swamp cutting timber. He finally escaped through the lines & arrived home.

196 Q. At what time during the war was the highest price reached for materials of this kind?

A. In 1864 & 1865, say the fall of 1864.

Q. Things were at their highest then?

A. Yes; iron & labor went up a hundred per cent in six months.

Q. What were white oak knees worth?

A. About $1.50 to $1.80 an inch. The only place we could get them then was in New Hampshire. There were very few white oak knees used in the ironclad vessels.

Q. Is there any difference in regard to the value of oak timber as to its length?

A. Yes; the longer the timber the more is its value. A stick fifty feet long is of more value than one that is ten feet long.

Q. What are the most valuable knees?

A. White oak knees ten inches through.

Q. These vary from 7 to 16 inch', I observe.

A. The sixteen-inch knees were probably used for floor timber. They could not be used for knees in a ship.

Q. Does the length increase the price in the plank as well as in the timber?

A. Yes. We used to get $319 a ton for tugs during the war. $319 I think was the highest that any ever was sold at. I know
197 Donald McKay sold two to the Navy Department for $319 a ton.

Q. How would such a vessel as the ram Texas rank?

A. She was fit for nothing except what she was built for—for an ironclad vessel.

Q. An ironclad vessel for war purposes?

A. That was all.

Q. (Handing paper to witness) Please look at that paper & state whether you have seen it before?

A. I have. (Paper marked Ex. C, McKay, Oct. 28, 1876. W. G. H.)

Q. That paper purports to contain a description of a rebel vessel called the Beaufort, which was captured at the fall of Richmond. What kind of a vessel was the Beaufort, in your judgment, according to that description?

A. She was a tug-boat.

Q. Does she belong to that class among ship-building?

A. Yes, with that cylinder; a 22-inch cylinder, and 22-inch stroke; that is what we call square.

Q. What was the value of such a vessel in your judgment in 1864, say the fall of 1864 & the spring of 1865?

198 A. I bought a vessel of about the same dimensions in Bath, Maine, called the Fearless, partly completed. I gave $30,000 for her, & before I got her done she cost me about $55,000. That was in 1863 and 1864.

Q. What would you regard as a fair estimate of the value of the Beaufort on the first of April, 1865?

A. I should think from $50,000 to $60,000. The government was buying them then at about that price.

Q. Could she have been built for a less sum than that?

A. I don't think she could. You can hardly count the cost of building a vessel in those times. The duty was double one hundred per cent. on the material that was imported and of course the American manufacturers added their price. That was done in a day.

Q. Did you ever see a canal boat built after the fashion of the Beaufort.

A. I never did.

Q. Could she in any reasonable view of things be called a canal boat?

A. No. I never saw a canal boat with steam in them. They would'nt hold the engines or boilers.

199 Q. What was the difference in the prices of such machinery as belonged to the Texas between the 1st of April, 1865 & the 1st of July 1865?

A. About a hundred per cent.

Q. Can you tell what the depreciation was in the values of war vessels like the Texas from the last of March, 1865, up to July, & the fall of 1865? I mean the value of such vessels before the war closed & their value afterwards.

A. I bought a great many vessels. I once bought three for $25,750, each of which had cost $800,000.

Q. Is it a fact that the government after the collapse of the rebellion sold a great many vessels in various parts of the country?

A. Hundreds of them all over the country from Maine to Texas, & there would have been money in private individuals' pockets if they had sunk their vessels after the war. I had lots of them and they ruined me.

Q. Please explain how the loss was inflicted on private individuals?

A. Because there were so many steamers the gov't. employed,
200 and when the gov't was done with them, there was no service for them.

Q. Those who bought them were compelled to let them rot?

A. They were compelled to tie them up to the wharf & never touch them. Every day they ran them they sank money.

Q. Then the value of these vessels after the collapse of the rebellion, including war vessels & a great many others, had greatly depreciated?

A. Vessels that cost a million of dollars would sell for $50,000 to $60,000. Take the case of the Guerriere; she was sold for $54,000 & she cost about $1,200,000.

Q. It is a fact I believe, in this case that the Texas was launched in November, 1864. I wish you would state, if you can, at what stage of completion a vessel of this kind can be launched?

A. The hull of the vessel must be complete for launching always. She
can't be launched unless she is completed. The boilers & machinery
are generally put in those vessels or any vessels, after they are
201 off the ways, because it is so high to hoist them on the side of the
vessel. There are very few boilers ever put in until the vessel is
launched.

Q. Is it usual to launch a vessel before she is almost completed as to works, aside from the machinery?

A. It is impossible to launch a vessel until she is completed, because as she goes of' the ways she would break in two.

Q. She has got to be substantially completed except as to the engines, &c.?

A. Yes; because she would be injured by launching otherwise. Very often in long vessels we have to put up trusses. The navy have to launch their vessels with trusses.

Q. One of the witnesses in this case testified that the iron clad ram "Texas" was worth only $75,000.

The WITNESS. Was that in confederate money?

Mr. TOTTEN. No, I think not. I think she would be worth $75,000,000 in confederate money.

The WITNESS. I never knew that it had any value at all.

Q. What do you say about such an estimate as that?

202 A. I should think the man never had any experience, and was crazy.

Q. Where was the iron plating usually made in this country for such vessels as that?

A. At Abbott's mills in Baltimore, and in Pennsylvania generally; in fact all of it was made there.

Q. What did you say the iron plating was worth per pound, say in the fall of 1865.

A. It was worth about 10 or 12 cents per pound according to the size of the sheets.

Q. Can you state what skilled labor, such as would be employed on a vessel of that kind, was worth in the fall of 1865?

A. About $4.50 to $5.00 a day.

Q. And common laborers, how much?

A. About $2.50 or $3.00 a day.

Q. Do you estimate their wages in the ordinary greenback currency?

A. I do.

Q. Do you remember what greenbacks were worth in those days compared with gold?

203 A. They were worth about 33 cents on the dollar. The highest
gold went was 2.85. I have had a table of it & have been through
it before on the same kind of an examination. In 1864, gold reached
2.85 which was the highest point. When the Alabama was sunk, I think
gold commenced sinking. Success in battle always varied the price
of material.

Q. Did the price of material, including lumber, timber, iron, machinery, &c., vary with the variations of the gold market, if you know?

A. Yes, sir; always.

Q. It trembled in the same way, did it?

A. They were weighed in the same balance, because Congress had got short of money to carry on the war, & they added to the revenue a hundred per cent. in a night. Of course the iron went up. Nine out of ten who had anything to do with the gov't in the building of these vessels were made bankrupt.

Q. In estimating the value of the Texas in March, 1865, would you regard $600,000 as a reasonable or an unreasonable estimate? I mean before the war was closed.

204 A. They could get any price for her.

Q. Then $600,000 is not an unreasonable estimate of her value at that time?

A. No; the gov't couldn't have built her for any such price.

Q. Would it have cost more?

A. There is no question about that.

Q. Do you think $60,000 is a fair estimate for the Beaufort.

A. I do. I lost one on the Florida Reefs, & lost $55,000 in a minute.

Cross-examination by Mr. GILPIN:

Q. You estimate the value of The Texas at $600,000. What is the character of the boat upon which you found that estimate?

A. I found that estimate on the same class of vessel that I have built myself.

Q. What do you consider the ram Texas to be in estimating her at that value.

A. I consider that she is an iron-clad vessel by the description.

Q. That she is plated?

A. No. I have classed her with plating and without plating.

205 Q. What did you class her without plating?

A. $500 a ton.

Q. How much would that be altogether.

A. That is one half of the cost nearly. If the vessel was plated & machinery in, she would cost to complete ready for sea in any northern port $1,000 per ton, including machinery and plating; without plating & with machinery she would cost $500 per ton.

Q. How much would that be altogether?

A. About $300,000.

Q. Does that include machinery?

A. That is without plating & with machinery.

Q. What would you consider her worth if she had no machinery in her; no plating, no stores, no equipments, & nothing but the naked wooden hull completed enough to be launched; without any interior finishing, because, as you know, a ship can be launched without interior fittings; just enough to keep the water out, what would she be worth then?

A. You have got to keep everything out besides the water. The hull of the vessel, 1,300 tons, would be worth about a hundred dollars

206 a ton. That would be $130,000.

Q. With regard to the Beaufort, what kind of a vessel did you base your estimate on? What was the character of the vessel that you had in your mind when you made that estimate of her value of $60,000?

A. I had the dimensions of a tug the same as is used in the rivers & harbor for towing vessels, that general model, also the engine, a 22-inch cylinder and 22-inch stroke.

Q. I' there such a thing as a canal boat 83 feet long?

A. Oh, they are all lengths; I never measured one of them. I should think, however, they would run from 125 to 150 feet.

Q. Would it be possible for a canal boat of that length, 83 feet, and of the width which they are ordinarily built of that length, to put an engine of the size described in a canal boat?

A. It would be impossible unless the canal boat was lengthened in

the stern, & then it would not make a proper vessel of her, because the water couldn't get at the propeller. She is so flat under the stern that you must make the vessel for the propeller. It would be impos-
207 sible to get the propeller to turn.

Q. You say that there was a great depreciation in the value of ships after the close of the war?

A. Yes.

Q. A boat like the Texas you say is worth $130,000. What would she sell for.

A. She would sell for scrap iron.

Q. What would the Beaufort be worth if she had been actually sold at the close of the war after the capture of Richmond.

A. She would probably sell for a much greater price in proportion than the other vessels.

Q. But still she would be worth a great deal less, or rather she would sell for a great deal less than she cost to build?

A. Oh, yes; every wharf was full of tugs with nothing to do. I had a tug at Charleston harbor at the close of the war, & also took one down to Washington. I kept her there so long that she got rotten, & I took the engine out of her. She was good for nothing.

Q. How with regard to vessels where they are launched. How
208 far is it necessary to complete them in order to launch them?

A. There is very little work to do on a ship when she is launched except finishing the cabin, putting engines in, rigging spars & sails & all the outfit: chains and anchors, caboose & stores. That is generally done afterwards.

Q. So that really there is nothing in her at all but the naked hull when she is launched.

A. Sometimes the bed plate is put in before she is launched if it is not too heavy, but there is never much done to the engine before she is launched, because a ship in launching generally varies. She straightens out a little or will move a little & sometimes cause the machinery, &c., to break. It is not generally fastened to the hull. I have been on board of a vessel rigged & launched, when she tipped over.

Q. I think you have said that vessel could only be sold for scrap iron, have you not?

A. After the war the gov't had four or five hundred vessels & they sold them by auction & at private sale for whate they could get, & have
209 been selling them since & up to this day. There are vessels selling now by the gov't that cost a million dollars, & I bought one a year ago for $22,000. There are several of that class in the Delaware.

Redirect examination by Mr. Totten:

Q. How much of a job is it to finish the iron plating of a vessel of this character after she has been launched?

A. The iron plating is generally put on the vessel, some of it before she is launched & some after.

Q. Is it an expensive portion of the work to put on the iron plating?

A. Not so very. The plating is all fitted and bored & drilled & countersunk and planed, and is made to fit the same as a piece of machinery.

Q. What would you estimate the cost of putting on the iron plating on a vessel of this kind after she had been launched?

A. I should think a few thousand dollars would put it on.

Q. What do you mean by a few thousand dollars?

210 A I should think four or five thousand dollars would put it

on. The decking is always put on after the ship is launched; that is the deck plating. They don't like to launch a ship too heavy & get too much weight in launching.

Q. State what portion of a ship is necessarily iron plated before it is launched?

A. That part which would go under water. A vessel with machinery out of her would be light, & they could put the iron plating on after she was launched. Then after that they might put the boilers in & that would take her down so that the plating would be under water and you couldn't work there.

Q. Can you give an estimate of the number of pounds of iron plating it would take to plate such a ram as the Texas?

A. I couldn't tell unless I figured the weight & knew the size exactly.
It might take 150 tons. The decking might take 125 tons. Some
211 put on an inch on the decking & some four inches & some six
inches on the sides.

Q. Some vessels are plated much thicker than others, of course?

A. Oh, yes; nothing was used during the war except the best implements of death. A plain thing that would only kill one man wouldn't be looked at.

Q. Did you ever hear of the knuckle of a ship? & if you did, please explain what it is.

A. I have been in a ship yard twenty-five years & I never heard of the knuckle of a ship. I have heard of the bilge of a ship & know what it is. Some people might call the turn of the stern the knuckle.

Q. Do you think such a vessel as the Texas could be turned into a merchant vessel of any kind?

A. No.

Q. Why not?

A. She is too wide; she wouldn't be of any use for any purpose at all.
She was built wide to draw little water on the rivers. She was as wide
as the Great Republic.
212 Q. Have you any interest in this matter in controversy?
A. I have not a cent in the world, directly or indirectly.

Q. Did you ever hear of these case until I spoke to you about them, or my agent?

A. I never did.

NATHANIEL McKAY.

Subscribed and sworn to before me this 28th day of October, A. D. 1876.

SAMUEL BELL,
U. S. Com.

213 Copy of letter relating to the materials and machinery captured by the naval forces at Richmond, Va. and appraisement of the same.

U. S. I. C. ONONDAGO,
May 26, 1865.

SIR: We would respectfully submit the following description of the machinery & material captured by the naval forces at Richmond, together with an appraisement of the same:

Two sets direct action condensing engines 26″ cyl. & 20″ stroke	$60,000
Two cylinders 30″ diameter & 28″ stroke, & frames with details for four (4) high pressure engines	10,000

One unfinished back-action non-condensing engine 20″ cyl. & 20″ stroke with pattern complete	3,000
214 One set non-condensing engines 17″ cyl. & 19″ stroke	$12,000
One set condensing oscillating engines 7″ cyl. & 6½ stroke	1,500
One other similar set nearly finished	600
Two cylindrical tubular boilers 16′00″ long & 7′00″ diam	4,000
One return flue boiler 16′00″ long & 7. 1″ diam	4,000
Two return flue boilers 22.00″ long & 8. 2″ diam	11,000
One small boiler	750
Another small boiler with cocks, valves, &c	600
Two others unfinished	750
One right & three left hand propellers 7′00″ diam	1,200
One left hand propeller 7.00″ diam	100
215 One right & one left hand propeller 8. 4″ diam	$300
One right-hand propeller 26″ diam	1,000
One right-hand propeller 66′ diam	750
One right-hand propeller 34′ diam	150
One wooden pump	300
Two Guild, Garrison & Co's pumps	400
750 boiler tubes	525
80 sheets ¼ boiler plates	1,280
Twelve 3½ Keystone valves	300

Very respectfully, your ob't serv'ts,

(Signed) ALEXANDER HENDERSON,
Chief Engineer.
WM. L. NICOLL,
2 Act'g Engineer.
CURTIS STANTON,
2 Act'g Engineer.

Act'g Rear-Admiral WM. RADFORD,
U. S. N., Commanding North Atlantic Squadron.

216 Copy of description of the rebel vessel.

STEAMER BEAUFORT, *Sept.* 7, 1865.

The Beaufort is an iron propeller; has a single engine; diameter of cylinder 22 inches; stroke of piston 22 inches. Hull needs extensive repairs.

Dimensions: length 83 feet; breadth 17 feet 5 inches; depth 6 feet 11 inches.

(Signed) GEO. B. BALCH, *Comd.*
A. TALBOT,
Master Carpenter.

217 Copy of appraisement & description of the rebel ram Texas.

UNITED STATES NAVY YARD,
Norfolk, June 22, 1865.

SIR :

Present worth of hull	$55,220
Machinery	36,000
	$91,220

The dimensions of the vessels are as follows, viz:

Extreme length, 217 feet.

Do breadth, 48 feet 6 inches.

Depth of hold from top of beam to top of floor, 13 feet.

Load draft, about 13 feet 6 inches.

The Texas is a new vessel, built in a substantial manner, of yellow pine, and fastened with iron and tree nails. None of the internal work has been done or the casements erected. A small portion of the bow has been plated. Model very good; much like the Columbia. The iron plating (prize property) received at this yard from Wilmington, 218 N. C., is nearly prepared for putting on, and will answer well for the vessel.

The machinery consists of two pairs of horizontal direct-action condensing engines connected to separate propeller, that has been used, nearly complete with the exception of floor plates, railling, ladders, &c.

Diameter of cylinder, 26 inches.

Length of stroke, 20 inches.

Diameter of propeller pitch and number of blades not ascertained.

Diameter of shaft, 6¼ inches, and two return-flue boilers, two furnaces in each.

Length of boiler, 22 feet; breadth, 8 feet 4 inches; height, 9 feet 1 inch.

Diameter of shell, 8 feet 4 inches.

Length of furnace, 7 feet; width, 3 feet 5½ inches.

Area of grate surface, 96.8 square feet.

Number of lower flues in each boiler, 18.

Diameter of lower flues, 14 feet 6½ inches, 2 ft. 7½ inches, and 2 ft. 8½ inches.

Number of return flues in each boiler, 16.

Diameter of return flues, 6½ inches.

(Signed) ISAIAH HANSCOM,
Naval Constructor.
E. R. OWEN,
Lieut. Com'd.
J. H. LONG,
Chief Engineer.

Filed Oct. 31, 1876.

219 Supreme court of the District of Columbia.

THE UNITED STATES
vs.
RAM TEXAS AND OTHER VESSELS. } No. 268, 269, & 270. Admiralty.

Notice is hereby given, that at 12 o'clock m. on the 10 day of Jan., A. D. 1877, the following named witnesses, and such other witnesses as may be produced, will be examined, and the examination continued from day to day until completed, and their depositions taken, to be used on the trial of said cause, on behalf of the claimants, before Frank T. Browning, examiner, at his office in Col. Law Building, 5th st., viz, James Parker.

ENOCH TOTTEN,
Proctor for Claimants, Law Building, Fifth St., Washington, D. C.

To the U. S. Dist. Att'y, D. C.

I acknowledge service of the above notice, this 6 day of Jan., 1877, and agree to the time named therein for taking testimony.

H. H. WELLS,
U. S. Attorney, D. C.

220 In the supreme court of the District of Columbia.

UNITED STATES
vs.
IRON-CLAD RAM & SHIP OF WAR TEXAS, &C. } Admiralty. Nos. 268, 269, 270.

At an examination held in this cause before me, pursuant to the annexed notice, personally appeared on the 10th day of January, 1877, the below-named witness, on call of the claimants, who being first duly sworn, the within deposition was written down from the statements of the witness, read over by him, and signed in my presence.

FRANK T. BROWNING,
Examiner in Chancery.

JAN. 10, 1877.

Met pursuant to the notice hereto annexed.

Present, witness & counsel; Enoch Totten for claimants, and H. H. Wells, jr., for United States.

JAMES PARKER, a witness of lawful age, being first duly sworn, in answer to interrogatories to him propounded, deposes & says:

221 Question. What is your name and residence?

Answer. James Parker, and I reside in the city of Plainfield, Union County, New Jersey.

Q. Are you the same James Parker, that testified in this cause before?

A. I am.

Q. Have you a map of the city of Richmond showing the locations of the bridges, and of the Confederate States navy foundry and machine shop, etc.?

A. I have one here.

Q. What do you say about the accuracy of the map?

A. The map I now produce is that upon which the various fire insurance companies base their contracts, and, so far as I remember Richmond, seems to me to be, and I presume is, entirely correct. I have had a part of this map, which I have marked in my testimony as Exhibit A, enlarged, so that the distance thereon can be measured according to the scale of the map. The enlarged part I desire to mark as Exhibit B.

Q. I observe in the insurance map marks, memoranda, etc., made with red ink, in several places; who did that?

222 A. Those marks are my own, and have been made to represent the facts of the case in April, 1865, so far as I now remember them.

(These maps are now offered in testimony, and attached to this deposition. The first or largest map is marked Exhibit A, J. P., and the smaller map is marked Exhibit B, J. P.)

Q. I observe that there are a number of districts or sections in this map of the city of Richmond colored yellow, green, and red, and numbered from 1 to 13. Please explain what those marks indicate?

A. The' indicate sections whereof the maps are made on larger scales than those numbered. This map is merely an index to the others.

Q. Please state where the Confederate States navy machine shop and foundry was located in Richmond in April, 1865, when you first reached the city?

A. They were located at the point on the large map marked A,
223 on the corner of Carey and South Seventeenth streets.

Q. That portion of the district in yellow here and numbered 9, close to the river, in which you have made the letter A, indicates the point where this machine shop stood, does it not?

A. Yes; it does.

Q. Where was the landing wharf or canal basin at which the ships landed, in reference to the machine shop?

A. It was located on what is called the dock, at the foot of South Seventeenth st.

Q. About how far from Talbott's machine shop was this dock or wharf?

A. Measuring to the nearest point of Talbott's machine shop, a few feet over a hundred feet. To the corner of Carey and South Seventeenth streets, as measured on the map marked Exhibit B according to the scale, it is about 200 feet.

Q. Had any portion of the city in that vicinity been burnt down or damaged in any way by fire at the time you took possession of the machine shop?

A. A very large portion of the lower part of the city had been
224 burnt. I do not think any of the buildings immediately connected with or to Talbott's shops had been burnt, but nearly all of the surrounding buildings had been more or less burnt.

Q. Who took possession of this machine shop in the first instance in the name of the United States?

A. So far as my memory serves, I think that I was the first officer to assert any such possession.

Q. Do you remember the day of the month of April, 1865, on which you took possession of the shop?

A. I cannot.

Q. Can you give about the day?

A. I should say about the 4th or 5th of April.

Q. Were there any soldiers about the building and shop at the time you took possession of it?

A. No.

Q. Were there any indications observed by you that soldiers had been about the premises?

A. No.

Q. How far is that machine shop from the State house in Richmond?

225 A. I should judge about three-quarters of a mile.

Q. Who were in possession of the premises when you took possession of them?

A. As I remember, Messrs. Talbott & Bros., who claimed to be owners of the same, and that they had simply leased the same to the Confederate authorities.

Q. Do you remember the kind of property that you took possession of there at that time?

A. It consisted almost entirely of naval property—boilers, screws or propellers, engines, and the machinery usually employed about vessels-of-war, together with tools and machinery of the shop that were used to manufacture such articles; I should regard them entirely of a naval character.

Q. Did they seem to be designed for the use of the Confederate navy in carrying on the war against the United States?

A. That was the character of the shop and everything in it; it was a naval machine-shop.

226 Q. Were there any indications that any other kind of machinery was manufactured there?

A. None whatever; the general character of that shop had always been that of a naval or ship shop.

Q. What was done with the machinery and other property captured at that place by you?

A. As soon as practicable, it was sent to the navy-yard at Norfolk, Virginia, as far as I remember. As long as I remained in command of the naval post of the Richmond occupation, I was engaged in sending portions of this property down to Norfolk, Va.; and I think, after I was detached from my vessel, I was ordered back there to complete what I was not able to complete before the vessel was ordered away.

Q. Did you capture some boilers which you considered were intended for the ram Texas?

A. I did.

Q. Where were they located at the time you captured them?

227 A. They were standing on the wharf, within fifty feet certainly of the water, at the lower part of what is termed Rockets, which is the part of Richmond lowest down the river.

Q. What other property was there besides these boilers at the time of capture?

A. At the Rockets there was a large quantity of ship-timber, consisting of oak timber, &c.

Q. Are you familiar with the appraisement of property made by Henderson and others on the 26th of May, 1865, or have you seen a copy of the appraisement set out in the testimony in this cause?

A. I have seen a copy of such appraisement.

Q. Can you distinguish in that list the boilers that were captured at Rockets and the other property taken possession of there?

A. I can distinguish them simply by the fact that boilers are mentioned there, and the character of the boilers.

Q. How many boilers were captured at Rockets?

A. Two large boilers.

228 Q. The appraisement made by Henderson, Nichol & Saunderson, of May 26th, 1865, is here shown to witness, and he is asked to point out on the list the boilers that were captured at Rockets.

A. Well, I would identify them as those described as two return-flue boilers, twenty-two feet long and eight feet and two-tenths diameter, and valued at $11,000.00.

Q. What do you say about the reasonableness of the valuation put on these two boilers by this board? I want your opinion of the value of the boilers at the time they were captured, considering that the war was not over.

A. I should think that each boiler was worth as much as the two are put down at here. Each boiler, in my judgment, was worth not less than $10,000 at that time.

Q. Was there any capture by you in the name of the United States at any other place in Richmond than Talbott's machine-shop?

A. Not by me.

229 Q. Can you state whether the machinery and other property, aside from these two boilers mentioned in the appraisement by Henderson and others, is the machinery that you captured at Talbott's machine-shop?

A. I should judge that it was from the description of some of them.

Q. What were the engines as to quality?

A. They were of high order, all of them.

Q. Were they first-class engines?

A. First-class in every respect.

Q. I see here 80 sheets of quarter-inch boiler plate; do you remember when that was taken?

A. I do not remember any boiler plates specifically.

Q. Can you give me any definite idea as to the quantity of the naval ship timber that was found at Rockets by you and taken possession of?

A. No; I cannot give any definite idea, except that there was a very large quantity, consisting of ship knees, &c.

Q. That was the kind of timber known as ship knees?

A. Yes, sir.

Q. Can you give me an estimate of the value of that ship timber?

A. I should not like to be quoted on that subject, because I do not know, except that it was a very valuable kind of timber—crooked
230 timber, knees, hooks, &c.

Q. Can you give me a definite idea of the number of ship knees?

A. No; I should suppose that there must have been several hundred of them.

Q. Was there a large quantity of the other kind of pine timber in addition to the several hundred knees?

A. All that I can say is that there was a large quantity of ship timber, consisting of the most valuable kind of ship timber, and there was a large quantity of yellow pine on the Manchester side of the river.

Q. About how many thousand feet of that?

A. I can't remember.

Q. What became of all this lumber and timber that you captured?

A. It was, I believe, most of it sent to the Norfolk navy-yard.

Q. Was it not all sent there?

A. I do not remember; I sent some of it down there, and I understood that it was all sent down there.

231 Q. Did you have any assistance from the Army in any way in capturing this property?

A None.

Q. Were there any soldiers about the premises, when you moved the property away?

A. There were no soldiers at the time of the capture, except there may have been soldiers in the city of Richmond, farther up, but I do not know of any soldiers being about it when I sent it away; I believe subsequently the soldiers did undertake to take possession of the premises, but as soon as they were informed that we had taken possession of it before them, then they gave up their claims.

Q. Where were the soldiers stationed in the city of Richmond in reference to this machine-shop?

A. I do not remember any soldiers being nearer at that time than the State-house square; perhaps some at Rockets, but the general aim in such cases was to keep the soldiers out of the heart of the city.

232 Q. Were there any soldiers at Rocketts when you made the capture there?

A. I do not remember any.

Q. How many bridges were standing at Richmond when you arrived there?

A. The only bridges were a wooden bridge or draw-bridge about one and a half miles below Richmond, and a pontoon bridge that had been made by our people, stre'ching across the river to Manchester, as I have marked on the map.

Q. In what condition were the other bridges?

A. They were all burnt.

Q. Were they entirely consumed, or standing there in a damaged condition?

A. They were wooden bridges, and were entirely consumed; the piers remained, and perhaps a portion of the bridge between the piers. They, the Confederates, burnt them so as to prevent communication with the opposite shore.

Q. By whose order did you take possession of this property?

A. By general orders that all officers had to capture naval
233 property wherever found. I may have had some orders from Admiral Porter or other superior officers on the subject, but I do not remember any such. It is impossible for me to state what orders I did have; it was the duty of an officer of the Navy to capture naval property wherever found.

Cross-examined by Mr. WELLS:

Q. On what vessel did you come to Richmond in April, 1865?

A. On the United States steamer Maumee, of which I was the commanding officer.

Q. How far up the James River did steamboats ordinarily pass?

A. Well, as far as what is known as Rocketts.

Q. Referring to Exhibit A, at what point is Rockets?

A. It is not mentioned on that map; it is below what is shown on that map.

Q. Is the James River navigable for ordinary steamers above 21st st., and, if so, how far?

A. I have an idea that steamers can go in the river as far up
234 as the lower end of Long Island.

Q. Is there any steamboat wharf in Richmond above Rockets?

A. As I remember, there was no steamboat wharf above Rockets.

Q. Do you mean to say, in regard to your examination-in-chief, that steamboats landed, or that there were any wharves for the landing of steamboats at or above South 17th st. in the city of Richmond?

A. I mean to say, in reply to that question, that the canal dock basin, into which light-draught crafts, boats, and transports, such as are used in the lower part of the James River, could come, was located at the foot of South 17th st.

Q. Did you ever see the ram Texas?

A. Many times.

Q. Could the ram Texas have gone up the James River to the wharf at the foot of South 17th st.?

A. I think that in the condition that she was captured she might have gone to that point, but I do not want to be positive.

235 Q. Could the ram Texas have entered the canal above Rockets?

A. I am inclined to think she could.

Q. When you arrived in Richmond, under whose control was the city?

A. Well, the Army had taken possession.

Q. Do you know who was the officer of the United States Army in actual charge of the city on that day?

A. I can only say, in reply to that question, that the earliest name that I can remember was Gen'l Godfrey Weitzel.

Q. Were or were not the officers of the United States Army taking possession of the property of the so-called Confederate States at that time?

A. I think they were not. They were after Gen'l Lee's army.

Q. Did the officers of the Navy of the United States exercise any general control over the city of Richmond—give any orders as to the management of the city or the disposition of the Confederate property, as distinguished from the officers of the Army; and, if so, what officers of the Navy exercised such control?

A. As to the city of Richmond itself, I should answer that
236 question by saying that the Navy did take possession of the whole of the water-line of the city, and of Manchester on the opposite side. We had it under our guns, and any attempt on the part of the people to make a rumpus would be promptly put down by the use of our shot and shell. As for giving any orders of the holding possession of the city of Richmond, of course the Navy's business was in Navy's things. We pursued not after Gen'l Lee as the Army did, because we could not go where there was no water.

Q. How long had the Army of the United States been in possession of Richmond before any vessel of the United States arrived at Rockets?

A. As near as I remember, there were naval forces there on the afternoon of the day on which the Army had taken possession?

Q. By whose direction or order did you send that ship timber to Norfolk, and to whom did you send it?

237 A. My memory as to that is, that I was directed to send all the naval property, of whatever character, to the Norfolk navy-yard. I do not remember any specific orders about that timber, except that I was left there in charge of that subject, and it was made my duty to ship all the naval property, of whatever description, to the navy-yard.

Q. Did not, previous to the removal of the ship-timber and the machinery at Talbott's machine-shop and foundries, the officers and soldiers of the Army claim that they were entitled to the possession of this property, and to the disposition of the same?

A. In reply to that I can say as soon as the Army returned from the capture of Gen'l Lee's army the quartermaster and, I believe, some agents who were employed to take possession of abandoned property, undertook to assert some such claim, but upon being informed that
238 the naval property had already been taken possession of by the naval authorities, they promptly abandoned their pretensions in regard to it.

Redirect by Gen'l TOTTEN:

Q. Is there any physical reason existing, then, why there should not be a general wharf above Rockets?

A. I think not; I think that a system of wharves, a great distance further above where it is, could be established there.

Q. You state in your cross-examination that the Army had taken possession of Richmond; do you mean to say, by that, that the Army was actually and physically in possession of this portion of Richmond, where the machine-shop was located, at the time you captured it?

A. No; I do not mean to be so understood.

Q. Did you capture this yellow pine which was located on the Manchester side of the river?

239 A. I cannot make an answer as to the specific lot of pine; but our orders were to take possession of all naval property, and by that we understood that we were to take this.

Q. The naval forces did actually capture that yellow pine that you spoke about?

A. Yes, sir; as I understand it.

Recross-examined by Mr. WELLS:

Q. Was not the city of Richmond, at the tim you took possession of this property, and the town of Manchester under the control of the Army of the United States; and did not the officers of said Army exercise such control over all of both Richmond and Manchester on the morning previous to the arrival of the vessels of the Navy?

A. I should say, in a general way, yes; in a particular way, no; the troops had passed through Richmond, some of them had gone over this
bridge, and otherwise transported to the Manchester side of the
240 river, but whether any of them had ever been in Manchester I
do not know; I am inclined to think not. They were engaged in the pursuit of Gen'l Lee's army; Richmond had become by that time way in the rear.

Q. Did not the soldiers and officers of the United States Army assist in controlling and subduing the fire that was raging in Richmond at the evacuation of Richmond?

A. As to that question, I am inclined to think that they did not do much; that the fire kind of burnt itself out.

Q. Did not the fire in Richmond at that time extend clear to Rocketts?

A. I do not know exactly where Rocketts begins and where Richmond ends. I think it cannot be said that the fire did extend clear to Rocketts.

JAMES PARKER.

Subscribed and sworn to before me this 10th day of January, 1877.

FRANK P. BROWNING,
Examiner in Chancery.

Filed June 1, 1877.

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241 In the supreme court of the District of Columbia. In admiralty.

UNITED STATES ON BEHALF OF THE OFFICERS & men of the North Atlantic squadron
vs.
IRON-CLAD SHIP-OF-WAR TEXAS AND THE BEAUFORT.
No. 268.
" 269.

It is hereby agreed and stipulated that the testimony of Z. C. Gifford, Cunningham, John J. Connor, F. A. J. Handy, Moses P. Handy, William A. Graves, James Meades, Maxwell T. Clark, and may be taken before M. F. Pleasants, esq., United States circuit court commissioner, at his office, in the city of Richmond, on Tuesday, the first day of February, 1876, between the hours of ten a. m. and four p. m., and to be continued from day to day until the same is completed, & that in case the said M. F. Pleasants for any cause be unable to take the testimony, the same may be taken before any other circuit court commissioner resident in the city of Richmond.

H. H. WELLS,
For United States.
E. L. STANTON,
For Captors.

JAN. 25, 1876.

242 In the supreme court of the District of Columbia. In admiralty.

THE TEXAS AND the Beaufort. } 269.

It is hereby stipulated that the names of the following witnesses, viz: Walter H. Taylor, Norfolk, Va.; Edward D. Tidball, Capt. Jack Parker, Chesterfield, Va.; Joseph E. Rollins, Staunton, Va.; Mr. Aheern, Richmond, Va.; Moses P. Young, Norfolk, Va.; John S. Maury, Baltimore, Md.; Chas. E. Bragdon, Fredericksburg, Va.; and Capt. Beverly Cannon, Richmond, Va., be added to the list of witnesses whose testimony is to be taken by stipulation on Tuesday, February 1, 1876, at Richmond, Va., said stipulation being dated Jan. 24, 1876.

H. H. WELLS,
For the U. S.
E. L. STANTON,
Of Counsel for Captors.

JAN. 27, 1876.

243 UNITED STATES COMMISSIONER OFFICE,
Richmond, Va., February 1, 1876.

In the supreme court of the District of Columbia. In admiralty.

UNITED STATES IN BEHALF OF THE OFFICERS and men of the North Atlantic squadron
vs.
IRON-CLAD SHIP-OF-WAR TEXAS AND THE BEAUFORT.
} No. 268.
" 269.

Be it remembered that on the second day of February, A. D. 1876, before me, a commissioner appointed by the circuit court of the United States for the eastern district of Virginia, by virtue of the act entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," at my office, in the city of Richmond, Va., in said district, between the usual hours of business, were produced and person*n*ally came before me W. A. Graves, Z. C. Gifford, C. E. Bragdon, James Meades, Chs. J. Fox, Thos. Cunningham, W. H. Taylor, A. Talbott, M. I. Clark, John H. Parker, John
244 J. Cannon, M. P. Handy, F. A. G. Handy, C. J. Fox, jr., John R. Cumbea, Thomas L. Skinner, Edwin Turner, and John R. Rockington, witnesses in behalf of the plaintiff, to depose in a civil cause depending in the supreme court of the District of Columbia, who' testimony is alleged to be material and necessary in said civil cause in behalf of the plaintiff.

And the said W. A. Graves, Z. C. Gifford, Chs. E. Bragdon, James Meades, Charles J. Fox, Thos. Cunningham, W. H. Taylor, A. Talbott, M. I. Clarke, Jno. H. Parker, John J. Cannon, M. P. Handy, F. A. G. Handy, C. F. Fox, jr., John R. Cumbea, Thomas L. Skinner, Edwin Turner, and John R. Rockington, being of lawful age and sound mind, and being by me first carefully examined, cautioned, and duly sworn on their respective corporal oaths to testify the whole truth touching the matters in controversy in said civil cause, respectively depose and say as follows:

Deposition of W. A. **Graves**, a witness sworn as aforesaid on
245 behalf of the plaintiff in answer to questions propounded by H.
H. Wells, esq., counsel for the plaintiff:

Question 1. Please state your name, residence, and occupation.

Answer. W. A. Graves; residence, Norfolk; occupation, ship-builder.

Question 2. Where were you about April 1st, 1865?

Answer. In and about Richmond.

Question 3. State now, in a general way, all knowledge you have in relation to the Beaufort, a Confederate vessel.

Answer. I recollect the Beaufort, which was owned by James C. Johnson, of North Carolina, and used as a freight boat on the Roanoke River. She was about 90 to a 100 feet long, probably about 18 feet beam and about 8 feet deep. She was purchased from Mr. Johnson by Marshal Parks, of Norfolk, Va., as navy agent of the State of North Carolina, under a commission from Governor Ellis, as well as I remember, brought to Norfolk, and fitted out at my place as a gunboat, some time in 1861; I cannot give the date. She was turned over to Commander
Mews, of North Carolina, and went into the Albemarle Sound in
246 North Carolina afterward, after the evacuation of Roanoke Island
& Norfolk. I saw her in the James River from 1862 up to 1865, where she was used as a transport & for other purposes. My recollection was that she had a single banded 32-pounder, a Brooke rifled gun, and a boat howitzer, 12-pounder; after the evacuation of Richmond I saw her on the marine railway in Chesterfield, opposite Rocketts, about opposite Morrissey's sugar definery. I think this was two or three days after the evacuation. Her hull was of sheet-iron. I do not recollect any plating.

Question 4. How long have you been in the business of building and repairing vessels?

Answer. Since September 4, 1837, the date of my apprenticeship.

Question 5. Please state what you think was a fair cash valuation of the Beaufort at the time of the evacuation, in her then condition.

Answer. I do not know what her then condition was. Since I arrived
here I have heard that her machinery was partially destroyed.
247 Judging from comparision, a similar but rather larger boat sold
in Norfolk, about three months since, for six thousand dollars. I should think the Beaufort would have been worth more at that time than she would be now, probably double as much from the greater demand for vessels & the large amount of stuff being moved. I think the Beaufort was worth at that time about $12,000, from the great demand for vessels then.

Question 6. What do you think was the fair value of the Beaufort when you repaired her in 1861?

Answer. I think nothing had occurred to change her value after that; she was worth about $12,000 then.

Question 7. What is the ordinary rule of depreciation on account of wear & tear of vessels in the service in which she was employed, from the time you knew her until 1865?

Answer. There is no regular rule of depreciation fully computed. Depreciation in that class of vessels in the service in which she was en-
gaged on a fresh-water river would be very little, but depend
248 entirely on the care exercised in her preservation.

Question 8. Did you know the Confederate iron-clad Texas? If so, state your knowledge of her.

Answer. I know the hull of a vessel called the Texas, commenced for an iron-clad. It was built on the Richmond side of the river. Not very long afterwards she was taken down the river. She had on no shield, no guns, and I was informed, according to recollection—I don't know anything but that she was taken down the river. I was requested to go on board of her in Norfolk by a gentleman from Boston, who had purchased her. That was probably in 1866. I sent workmen on board to arrange tiller, wheel, &c., for steering apparatus. She was taken away from Norfolk, I am told, to Boston. A shield is an inclined plane of iron to protect the batteries & men working them from the shots of an enemy.

Question 9. Are you able to estimate her value at the time of the evacuation?

A. No, sir.

Question 10. Can you state about what her value was when you saw her in Norfolk?

249 Answer. No, sir; I can give no idea of her value, it depending upon construction & adaptability to purposes of trade.

Cross-examined by **Robert Ould**, Esq., counsel for captors:

X Ques. 1. When you speak of the value of the Beaufort as being $12,000, do you mean exclusive of her machinery & armament, or inclusive?

Answer. I include her machinery; armament being worthless for the purpose for which she was to be engaged, I exclude the value of the guns.

X Ques. 2. What was the value of one of the Brooke guns?

Answer. I don't know, sir.

X Ques. 3. What would you estimate to have been the value of the Beaufort at the time of the evacuation of the city of Richmond, not for mercantile uses, but for the purposes for which she was used immediately preceding her capture? What was her value as a vessel of war?

Answer. I don't think she was worth anything as a vessel of war. As a transport she was not very valuable, in consequence of her size. She was pretty actively engaged as a transport.

250 X Ques. 4. You have spoken of certain alterations to adapt her for war purposes. Did those alterations impair her value for mercantile purposes? If so, to what extent?

Answer. The alterations made in her to adapt her for a gunboat were the increasing the thickness of her deck under the gun, shoring up, &c., to give it stability; building magazine, galleys, or cook-room, lockers, &c., for berthing men below, which would all be required to be removed before she could have the same capacity for cargo.

X Ques. 5. What was the cost and value of the alterations put upon the Beaufort at the time you speak of?

Answer. I don't think it was more than from $500 to $800.

X Ques. 6. Can you speak with any accuracy of the machinery on board the Beaufort, and its value?

Answer. No, sir.

X Ques. 7. Who built the Texas?

Answer. Mr. James Meades was the master builder in charge of the yard at the time she was built.

251 X Ques. 8. Can you speak with any accuracy of the machinery & armament of the Texas, & their value?

Answer. According to my recollection, the Texas had no armament. I know nothing of her machinery.

And further deponent saith not.

W. A. GRAVES.

Deposition of Z. C. GIFFORD, sworn as aforesaid in behalf of the plaintiff, in reply to questions by H. H. Wells, esq.:

Question 1. State your name, age, residence, and occupation.

Answer. My name is Z. C. Gifford, age 58, residence Richmond, and occupation seaman.

Question 2. Where were you immediately preceding, on, and after April 1st, 1865, and how were you employed?

Answer. In command of the flag of truce steamboat William Allison.

Ques. 3. Whereabouts on the James River were you on Saturday, April 1st, 1865?

Answer. I went down the river from Richmond to Graveyard Landing with prisoners. The landing is at the lower end of Graveyard
Reach, Cox's Ferry, 12 miles from Richmond, between 3 & 4
252 miles above Dutch Gap Canal. It is called seven miles from
Rockitts to Drury's Bluff or Fort Darling. It is nine miles from Drury's Bluff to Dutch Gap Canal. It is 22 or 23 miles from Dutch Gap Canal to City Point. I mean from the lower end of the canal, by the river.

Ques. 4. Do you know where the Federal fleet was lying on Saturday morning, April 1st, 1865?

Answer. I do not.

Ques. 5. Do you know where the Confederate gunboats were lying on that Saturday morning?

Answer. They were lying, I think, between Chaffin's Bluff and Graveyard Reach, just below Chaffin's Bluff.

Ques. 6. What Confederate iron-clads or gunboats were there?

Answer. I don't recollect any but the three iron-clads, the Virginia, Richmond and Fredericksburg.

Ques. 7. Do you know where the Texas was?

Answer. Lying at Drury's Bluff, near the obstructions above them, right under the works. She was lying just above & close to the obstructions, & made fast to some piles to secure her.

253 Ques. 8. Where were you on Friday, the last day of March, 1865?

Answer. At Richmond, on board the flag-of-truce boat, lying at the wharf.

Ques. 9. Where were you on Sunday, April 2, 1865?

Answer. I carried prisoners down to the Graveyard Reach on Sunday. I returned, reaching the wharf at Richmond about 9 o'clock Sunday night.

Ques. 10. Was there any firing or engagement between the gunboats, Federal and Confederate, within your hearing on either Sunday or Saturday?

Answer. No, sir.

Ques. 11. Do you know the fact of the blowing up of the Confederate ships? If so, where did it occur?

Answer. I towed the three ironclads, the Virginia, Richmond, & Fredericksburg, into the obstructions at Drury's Bluff, Sunday night, about 8 o'clock, returning from the flag-of-truce trip; I then left them; knew nothing more of them until T*eu*sday; I was sent down the river
to take Admiral Farragut, General Gordon, and two others to
254 Aikin's Landing. In passing down by Drury's Bluff, I saw the
wrecks of two ironclads in the obstructions, and one opposite Chaffin's Bluff, where she had sunk. I left Richmond that day at 1 o'clock p. m., & arrived at Aikin's Landing at 5 p. m.

Ques. 12. Did you, on that occasion, see the Texas?

Answer. The Texas had drifted down to Chaffin's Bluff from Drury's, and had drifted ashore alongside of a bank on the south side of the river, in Chesterfield County. I supposed she had drifted, for the reason that I saw her on a mud flat opposite Chaffin's, nobody being on board; that was between 2 & 3 o'clock p. m. on T*eu*sday.

Ques. 13. Do you know where the Texas was built?

Answer. On the Richmond side of the river, at Rocketts.

Ques. 14. How frequently had you seen her during the progress of her construction?

Answer. I was in the shipyard, and saw her once. She was—her hull was about half completed. I don't know when she was launched, or went down the river from Rocketts.

255 Ques. 15. Where was it, and when, that you met or saw the first Federal ship of war, gunboat, or ironclad?

Answer. I don't remember seeing any Federal gunboat of any kind until I saw the Federal monitors lying between Trent's Beach and the lower side of the Dutch Gap Canal. I met several transports or small steamers between Richmond and Drury's Bluff, on the trip down to Aikin's landing on T*eu*sday.

Cross examined by counsel for captors:

X Ques. 1. Do you know when the obstructions at Drury's Bluff were removed by the Federal forces?

Answer. I do not, until I passed them on T*eu*sday, when I met the transports & knew they had come through. There were no boats that came up on Monday. The first that came up on T*eu*sday was between 12 & 1 o'clock, as near as I can recollect.

X Ques. 2. Are you familiar with the machinery on board the Texas, and its value?

256 Answer. I don't know that there was any machinery on board of her. I was never on board of her to see. There was no appearance of any outside of her.

X Ques. 3. Were there any other Confederate gunboats besides the Texas and Beaufort in James River between Richmond and Dutch Gap previous to the evacuation, except the monitors & ironclads? I mean, previous to Monday.

Answer. There were several. So far as I know, they were all destroyed—sunk or burned.

X Ques. 4. About what time of the night of Sunday were the ironclads exploded?

Answer. I don't know. We heard reports of explosions, supposed to be of them, on the wharf at Richmond, about 11 o'clock of Sunday night.

Redirect examination by plaintiff's counsel:

Redirect qu. 1. What were you doing with your boat on Monday, the 3d of April, 1865?

Answer. I was carrying Federal soldiers from the wharf at Rocketts directly across to Manchester, Chesterfield County. I don't know who commanded the brigade, but Captain Blood, who established himself there the 1st quartermaster, introduced himself tome, and asked 257 me if I was willing to carry his brigade across the river, and I did so. I commenced about 10 o'clock on Monday, April 3d, till sundown. Commencing again at sunrise T*eu*sday morning, and finished about 12 o'clock on T*eu*sday. They were infantry and artillery—

colored troops. I think I carried from 5,000 to 6,000 troops. I can't tell the number of pieces of artillery.

And further deponent saith not.

Z. C. GIFFORD.

Deposition of CHARLES E. BEAGDON, sworn as aforesaid on behalf of plaintiff, in reply to questions by H. H. Wells, esq.

Ques. 1. Please state your name, age, residence, and occupation.

Answer. Name, Charles E. Beagdon; age, 34; risidence, Fredericksburg; occupation, merchant.

Ques. 2. Where were you employed about the 1st of April, 1865; upon what ship, & in what capacity?

258 Answer. I was on board the Confederate iron-clad Richmond, off Chaffin's Bluff, as master's mate in the navy. The ship had been there since September, 1864. The Confederate obstructions were above us, at Drury's Bluff. There were Federal obstructions below us at Trent's Beach, about two miles below Howlitts.

Ques. 3. Did you know at that time, April 1st, where the Federal fleet was? State your whereabouts on Saturday, Sunday, & Monday the 1st, 2d, and 3d of April.

Answer. I do not know. On Saturday & Sunday I was on board the Richmond till Sunday night from 10 to 12 o'clock, when we were transferred to the steamer wooden gunboat Hampton & taken to Manchester. Preparations were made by the commanding officer to destroy or blow up the Richmond, Fredericksburg, and Virginia. They were towed up from Chaffin's to Drury's Bluff and placed in the obstructions at Drury's. Between 2 & 3 o'clock on Monday morning, April 3d, we heard the explosion of the iron-clads.

259 Ques. 4. State what firing, if any, took place or was heard by you from either the Confederate or Federal ships on either Saturday, Sunday, or Monday, day or night.

Answer. No firing at all; certainly none from the Confederate ships, nor, so far as I heard, from the Federal.

Ques. 5. State, if you know, what was the immediate cause of the Confederate iron clads being moved up from Chaffin's Bluff to Drury's preparatory to their being destroyed.

Answer. The cause was the evacuation of the lines around Richmond & the city of Richmond, leaving the ships isolated & easy of capture. It was understood, without our having any particular information, that the lines had been given up.

Ques. 6. Did you ever see the Texas? If so, when & where?

Answer. I saw her whilst in the course of construction at Rocketts, afterwards when she was brought down the river, either to Chaffin's or Drury's Bluff, I don't remember which. That was in the week preceding the evacuation of Richmond.

260 Cross-examined by counsel for captors:

X ques. 1. Were not Drury's Bluff & Chaffin's Bluff heavily manned at or about the time of the evacuation of Richmond?

Answer. They were.

X ques. 2. Did they not command the river to a considerable reach below both of these forts?

Answer. They did.

Re-examined by pl't'ff's counsel:

Redirect ques. 1. During Saturday and Sunday & Monday, did you hear any firing from either Chaffin's or Drury's Bluff?

Answer. I did not, up to the time I left Sunday night. At that time the Confederates were blowing up the works ashore & burning the quarters.

Recross-examination by def't's counsel:

Re X Ques. 1. How far below Chaffin's Bluff, on the banks of the river, did the Confederate lines extend?

Answer. They extended to about the Graveyard.

And further deponent saith not.

CHAS. E. BEAGDON.

261 Deposition of JAMES MEADES, sworn as aforesaid, on behalf of the plaintiff, in reply to questions by H. H. Wells, esq.

Ques. 1. Please state your name, age, residence, and occupation.

Answer. Name, James Meades; age, 61; residence, Portsmouth, Va., & occupation ship-builder. I have been a ship-builder for 45 years in Maryland & Virginia.

Ques. 2. Where were you in 1861 during the war?

Answer. At the commencement of the war I was at Portsmouth, Va. I went to Richmond on the evacuation of Norfolk in May, 1862.

Ques. 3. What knowledge or acquaintance did you have with the Confederate iron clads Texas and the Beaufort?

Answer. I built the Texas. I commenced her in the early part of 1864. She was 180 feet over all, 48 beam over her spondings, that is, from outside to outside; 12 feet depth of hold from the face of her keel to the top side of the beam in the centre of the ship. She was of white-oak frame, plank white oak; her deck was 4 inch plank laid upon 262 solid beams. She was built at Rocketts, on the Richmond side of the river. She was launched in November, 1864. She was intended to carry four 8-inch Brooke guns; after she was launched she remained alongside the wharf at Rocketts until preparation for the evacuation of Richmond. I don't know where she was taken; she was removed from Rocketts to the best of my knowledge on Wednesday previous to the evacuation; at that time she was a mere hull of a vessel. She had no spars; she was not intended to carry them; she had no machinery, guns, magazine, ammunition, or stores of any kind on board. She had on board a portion of the shield intended for her, put there for the purpose of destroying her. The shield was to be constructed of oak & pine. A portion of the lumber was put aboard to assist in burning her. To the best of my recollection she had about 54 tons of iron on her knuckle to protect her from shell & shot. The knuckle is the projection beyond the extreme width of the ship, extending beyond 263 the hull. There was 56,816 pounds of iron on the knuckle. There was 63,600 pounds below the knuckle, running fore and aft, running around the ship. The iron running around the ship was two inches thick, 8 inches wide, & 15 feet long, in plates weighing each 795 lbs. or 53 pounds to the running foot. The 54 tons included the iron plates & the iron on the knuckle. The lumber portion of the shield on board was about 20,000 feet. The piece was 14x16 inches, 14 feet long.

Ques. 4. What, in your judgment, was the fair cash market value of the Texas in her then state of forwardness?

Answer. For war purposes she was worth seventy-five thousand dollars at that time. She could not be put in that state of forwardness at the then exorbitant prices of labor & material for less money. To convert her into the most favorable merchant service she would be worth about $6,000.

Ques. 5. State, if you know, where you next saw her, and what was done with her after the close of the war.

264 Answer. I next saw her in the harbor of Norfolk, in the summer of 1866. She was put in the dry-dock and coppered before she was sold, but how long I don't know. The coppering would cost $3,000.

Ques. 6. State, if you know, what the relative cost of building such a ship at the time she was built and now would be.

Ques. 7. In my opinion it would cost one-half less now.

Ques. 8. State, if you please, the value of all the timber & lumber on board the ship not included in the ship herself.

Answer. I' was of no value except for the purpose it was intended for. It cost 35 dollars a thousand & there were 20,000 feet.

Ques. 9. Now state your knowledge of and acquaintance with the Beaufort.

Answer. My first knowledge of the Beaufort, which was turned over to the government by Mr. Graves, was during the summer of 1861. I received her for the government to make some alterations in her.
265 I altered her steering apparatus for the purpose of keeping it out of the way of a gun placed on her stern. I don't know what she was originally intended for. After the alterations she made short cruises between Craney Island and Norfolk as a boat of observation.

Ques. 10. Where was she about April 1, 1865, and what was her condition?

Answer. Of my own knowledge I don't know.

Ques. 11. Where did you next see her after the evacuation?

Answer. I have never seen her since to know her.

Ques. 12. What, in your judgment, was the fair cash market value of the Beaufort, including her machinery & everything on board of her?

Answer. From twelve to fifteen thousand dollars, including her guns and everything. I think guns like her bow gun were worth about $500 apiece. The other was a brass gun & of about the same value. I put them on board & prepared the vessel to receive them.

Cross-examined by counsel for captors:

266 X Q. 1. When was the last time you saw the Texas before the evacuation of Richmond?

Answer. On the Wednesday previous to the evacuation; I was on board of her on that day. That was the day she went down the river, to the best of my memory. There was some machinery at Talbot's works then being prepared for the Texas. It had been taken from an English blockade runner, the Kate, which had gone ashore near Wilmington. An engineer in the Confederate navy named Williamson, now dead, was in charge of it. It was nearly ready to be put aboard. The work on it was stopped, the mechanics having been taken to Fort Gilmer. The' came back and launched the ship & then returned to Fort Gilmer. This was in November, & there was no more work done on that machinery or the ship either afterwards. The Texas was in my charge, so far as the mechanical work on her went, after she was launched as well as before.

X Q. 2. Do you know when the machinery was put in the Texas?

267 Answer. The two screws and the first pieces of shafting attached to the screws were all the machinery put on board. This had to be put on board before launching her. There never was any other machinery put in her. She was sold loaded with cord-wood, and

left the harbor of Norfolk for Boston. I do not know what became of the machinery at Talbot's works that was intended for her.

X Q. 3. When you estimate the value of the Texas at $75,000 in good money, for war purposes, do you mean to say that the vessel did not cost the Confederate Government more than that to construct it?

Answer. My opinion is that it did not.

X Q. 4. What do you suppose was the original cost of the construction and equipment of the Beaufort?

Answer. I suppose the original cost was about $12,000, including everything.

Redirect examination by counsel for pl't'ff:

Redirect Qu. 1. Were you sick about the time of the evacuation of Richmond?

268 Answer. I was. I was taken sick on Thursday before the evacuation and was sick about ten days.

Redirect Q. 2. What is the ordinary depreciation by wear & tear of vessels?

Answer. It is hard to say. In the case of the Beaufort I think she kept at par, as she was in the hands of the mechanics, who kept her in good repair.

And further deponent saith not.

JAMES MEADES.

Deposition of CHARLES J. FOX, sworn as aforesaid, on behalf of the plaintiff, in reply to questions by H. H. Wells, esq.:

Ques. 1. State your name, age, residence, & occupation.

Answer. Name, Charles J. Fox; age, 50; residence, Richmond; occupation, a ship-builder.

Ques. 2. Where were you just before, during, & just after the evacuation of Richmond?

Answer. At the marine railway, on the south side of James River, exactly opposite the sugar refinery. I was the superintendent for a company of which Thos. W. McCaver was president.

Q. 3. Did you know the Beaufort? If so, state how long you
269 knew her & what connection you had with her.

Answer. As superintend*a*nt of the marine railway, I was called on several times during the war to haul her out of the water for repairs; most commonly to repair the shoe-shaft & work about her propeller. I don't know the last time I hauled her out, but I am sure she was on the railway on the 31st of March, 1865, & remained there several days, at least three or four days after April 3d. I can't say now what was the nature of the repairs then made on her, but they were not finished, whatever they were, or she would have been launched.

Q. 4. State, if you can, by what Federal authority she was taken possession of, and when, and how?

Answer. The first Federal authority at all was some soldiers who came over from the direction of the sugar refinery. The' said they were in search of flags. They searched the vessel & took all they could find. This was on Monday. They were armed with muskets. The next Fed-
eral authority I know of was a gunboat—I think her name was
270 the Maumee—that came up & anchored near the railway. Two
or three officers came ashore from that boat in a six-oared gig, and asked who had charge of that establishment, boats, & place, referring to the railway and gunboat & a wooden ship on the stocks. I replied to those officers that I had charge. After asking me some ques-

tions, they invited me to go with them on board their ship, & I went. They there asked me all the questions in regard to the gunboat on my ways; what I was doing with her, why she was not burned, and detained me a very long time; after which they returned me to the railway, told me to go on with whatever repairs, & remain in charge of the property, finish & launch the boat, and they would pay me. All of which was done. I did finish & launch the boat and they paid me. I can't tell what day this was. There was so much excitement I can't tell the time of the day nor how many days after Monday. I think 271 it took three or four days to complete the repairs. I can't tell how many days after the soldiers came that the officers came. It was not so much as one hundred dollars that I was paid for the repairs. The soldiers & naval officers did not come on the same day. The soldiers I know came on Monday; the officers on a later day, I can't tell exactly when.

Q. 5. What was the value of the Beaufort as she was on that day—the evacuation of Richmond?

Answer. I think she would have sold at that time for $15,000. I don't know her age.

Q. 6. Were you acquainted with the Texas; if so, when did you see her?

Answer. I saw her building at Rocketts, on the Richmond side of the river, near the ship-locks, and saw her after she was launched, lying there at the wharf. I was on board of her quite often, both while on the stocks & after she was launched.

Q. 7. From your experience as a ship-builder & your acquaintance with the Texas, what, in your opinion, was her fair cash market value in greenbacks at the time of the evacuation of Richmond?

Answer. If to be used as an ironclad, she was worth $95,000; 272 if to be fitted up & employed in a favorable merchant service, I should say $7,000.

Q. 8. What would be your estimate of the lumber on board of her, as described by Mr. Meades?

Answer. Heart pine has never been bought here since for less than $40 per thousand.

Q. 9. What became of the officers & crew of the Beaufort?

Answer. They all left late Sunday evening, & went up toward Manchester & never returned.

Cross-examined by counsel for captors:

X Q. 1. What do you say would be a fair price for the Beaufort at the time of the evacuation of Richmond, if sold to a party who needed her for the purpose to which she was adapted?

Answer. Fifteen thousand dollars.

And further deponent saith not.

CHAS. J. FOX.

The hour of adjournment having arrived, the further taking of these depositions is continued until to morrow, at 10 o'clock a. m.

M. F. PLEASANTS,
U. S. Com'r.

273 U. S. COMMISSIONER'S OFFICE,
Richmond, *February 2d*, 1876.

Deposition of THOMAS CUNNINGHAM, sr., sworn as aforesaid, on behalf of the plaintiff, in reply to questions by H. H. Wells, esq.:

Question 1. State your name, age, residence, and occupation.

Answer. Name, Thomas Cunningham, sr.; age, 56; residence, Richmond; occupation, pilot & captain.

Qu. 2. Where were you on the 1st, 2d, and 3d days of April, 1865, & what were you engaged in?

Answer. On the 1st of April I was captain of the steamer W. W. Townes, lying at Richmond; on the 2d we assisted the steamer Wm. Allison in taking the Federal prisoners down to the Graveyard; we discharged them just before sunset, and left for Richmond. In passing up the river we passed the Confederate iron-clads; two of them (they were then lying just below Chaffin's Bluff) were moving up and one just unmooring. We arrived in Richmond from 7 to 7½ o'clock 274 that evening. On the 3d in the afternoon we assisted the Allison in taking Federal troops across the river. We didn't move again for three or four days, remaining in Richmond.

Q. 3. How near were you at any time, during those three days, to either the Federal or Confederate fleet; or the guns on the Confederate works at Chaffin's, Drury's, or Howlitt's?

Answer. I never saw any of the Federal fleet. I could not have been nearer than 7 miles by the course of the river and 4 or 5 by an air-line. We passed right by the Confederate fleet at Chaffin's Bluff. We were within 300 feet of the guns on Chaffin's and Drury's Bluff on Sunday the 2d. Not nearer than 3 miles by an air-line, or 6 or 7 by the channel from the guns at Howlitt's.

Q. State what firing, if any, you heard from either of the fleets, Federal or Confederate, or from either of the shore batteries during those three days.

Answer. None whatever.

Q. 5. What knowledge or acquaintance, if any, had you with the Texas?

275 Answer. I saw her launched; saw her lying at Richmond, & on the evening we took down the prisoners, to the best of my knowledge, she was lying at Chaffin's Bluff, one mile below Drury's Bluff; I remember the fact because a pilot boat belonging partly to myself & one belonging to other private parties were lying there & were put in the obstructions at Graveyard Reach, & I am confident the Texas was there at the same time. Graveyard Reach is about three miles below Drury's Bluff. She was in the stream, but my impression is she was rather on the north side at anchor, & I think with one line to the shore. I saw the Texas while she was lying at the wharf in Richmond pretty nearly every day. When lying at Chaffin's Bluff she was only the hull of a vessel, apparently light, with nothing in her. She had some plating on her side, as described by Captain Meades. There were no guns or armament in sight.

Q. 6. Did you ever see her lying there after the 3d of April?

276 Answer. Some three or four days after the evacuation I passed down the river and she was then lying at Chaffin's Bluff anchored & secured as before described. I saw no one on board; I didn't go on board, & there might have been persons on board without my seeing them.

Q. 7. When did you first see any of the Federal fleet, gunboats or iron-clads at or about Rocketts or anywhere above Drury's?

Answer. I can't tell to save me. I think some of the vessels came up on Tuesday the 4th, but I am not certain. I feel satisfied I did not see any on Monday the 3d. A day or two after the evacuation a war vessel, a steamer, a double-ender, came up and anchored just above Mr. Fox's marine railway; she was a propeller. I don't know her name.

Q. 8. What, in your judgment, was the fair cash market value of the Texas on or about the day of the evacuation as she then lay?

Answer. What her value as a war vessel might be I cannot
277 say; for mercantile purposes she would be valuable only as a
barge or ice boat, or something of that sort, and worth from
$7,000 to $10,000 for her wood and iron.

Q. 9. Did you know the Beaufort; & if so, when & where did you see her last?

Answer. I knew her & saw her on Mr. Fox's railway a day or two before and four or five days after the evacuation.

Cross-examined by R. **Ould**, Esq., counsel for captors:

X Q. 1. Do you know when the obstructions at Drury's Bluff were removed by the Federal authorities; & if so, by what Federal force?

Answer. I don't know when or by whom they were removed.

X Q. 2. Do you know what was the cost of building the Texas in good money?

Answer. I do not.

X Q. 3. What would be her fair value if sold to parties who needed her for the purposes to which she was adapted?

Answer. From what has been said here by her builder and
278 other experts, I should say, $75,000, relying upon their judg-
ment.

X Q. 4. How many Confederate navy-yards were there in Richmond?

Answer. There was one in Richmond & one on the Manchester side, opposite Richmond.

X Q. 5. Was there much timber in these yards, either or both?

(This question is objected to by counsel for the United States.)

Answer. I don't know anything about that.

X Q. 6. Are you very confident that the Texas was below the obstructions at Drury's Bluff as early as Sunday the 2d?

Answer. To the best of my belief she was below there on Sunday evening at sunset. I did not go down the river on Saturday.

And further deponent saith not.

THOMAS CUNNINGHAM, Sr.

Deposition of **Walter H. Taylor**, sworn as aforesaid, on behalf of the United States, in reply to questions by H. H. Wells, esq.:

Q. 1. Please state your name, age, r'idence, & occupation.
279 Answer. Name, Walter H. Taylor; age, 37; residence, Nor-
folk, & by occupation a merchant.

Q. 2. In what military duty were you engaged on or about April 1st, 1865?

Answer. I was performing the duties of adjutant-general of the army of Northern Virginia, under General R. E. Lee.

Q. 3. Where at that time was the extreme right and left of General Lee's army?

Answer. The right was at or about Dinwiddie Court-House, south of the James River, about 35 miles from Richmond; the left upon the Chickahominy River, north of James River, and about 8 or 10 miles from Richmond. Our line, the main line, crossed the river at Chaffin's on the north side and Howlett's or Drury's on the south.

Q. 4. Can you state, & if so, please do so, at what time in the day and what day the first order was given for General Lee's army to fall back from the line you have already indicated?

Answer. General Lee concluded in the forenoon of Sunday, April 2d,

that it would be advisable to evacuate the line then held & the
280 cities of Richmond and Petersburg, and communicated that fact
to the President of the Confederate States. The movement commenced on the night of Sunday the 2d. The Confederate shore batteries on both banks of the James River were all ordered to be withdrawn on that night.

W. H. TAYLOR.

Deposition of **CHARLES J. FOX** (recalled), sworn as aforesaid, on behalf of the United States, in reply to questions by H. H. Wells, esq.:

The witness was recalled, and deposes that on conference had since the last adjournment with his son & others he is now satisfied that the Federal ship Maumee did not arrive at Rocketts until the night of Teusday, April 4th; she might not have arrived that night. He is satisfied she did not arrive before that night.

Cross-examined by R. **OULD**, Esq., counsel for captors:

X Q. 1. You have stated that one or more of the officers of the
281 Maumee paid you for repairs and launching of the Beaufort.
Please state how that payment was made, whether in cash or by order; and, if by the latter, on whom was the order drawn?

Answer. I do not remember how they paid me, whether by order, cash, or how. I am under the impression that they did give me the cash, but I am not certain. I have no recollection of presenting any order to anybody. I don't remember who gave me the money, or whether it was on his own behalf, or on behalf of himself and others.

X Q. 2. When the Beaufort was launched from the marine railway, who took possession of her?

Answer. A man, by the name of Gentry, a Richmond man, was put on board by those United States officers to take care of her and pilot her to Norfolk. To the best of my knowledge she remained at Richmond about ten days.

CHAS. J. FOX.

Deposition of **ALLAN TALBOT**, sworn as aforesaid, on behalf of
282 the United States, in reply to questions by H. H. Wells:

Q. 1. State your name, age, residence, & occupation.

Answer. Name, Allan Talbot; age, 32; residence, Richmond; & by occupation an engineer.

Q. 2. Have you any knowledge of the machinery that was intended for the Texas? I refer to the machinery that was in the shop of Talbot & Brother about April 1st, 1865. If so, state where that machinery was & what was done with it.

Answer. I remember that there was a pair of engines at the establishment of Talbot & Brother, carried on by the Confederate States navy department, at that time, which engines were intended for the ironclad, Texas. They were not manufactured by the Confederate Government, but were brought there and said to have been removed from another vessel. They were comparatively new, & my impression is that they were of English make. They were being repaired and added to for the ironclad, Texas. They were brought there several months before
the fall of Richmond and remained there two or three weeks
283 after the fall of Richmond. The shop is located on the corner of
17th & Cary streets, Richmond City, about fifty yards from the dock & within two hundred yards of the river. I was absent from the city at the time of the evacuation & returned about two weeks there-

after. I found the establishment of Talbot & Brother in the hands of officers of the United States Navy. All the material & work belonging to the Confederate States government were being removed from it. Among them the engines designed for the Texas. My impression is that the officer in charge was Captain Parker, I think, of the Maumee. There were several engines there and parts of engines, and raw material; I cannot state definitely how many engines or how much raw material. I don't know where it (the property) went to; I only saw it was being removed.

Q. 3. State if you can, & as fully as you can, about what was the value of the two engines you speak of—as they then were.

284 Answer. I cannot give an accurate estimate of their value. Marine work is not in my line of business. I should say from my recollection that $20,000 would at that time have been a fair price for the engines proper.

Cross-examined by R. OULD, Esq., counsel for captors:

X Q. 1. Were there any boilers or other machinery than engines destined for the Texas in your establishment or in any other establishment in this city that you are aware of?

Answer. It is my impression that all of the iron work for the Texas that had been complited was in the establishment of Talbot & Brother. I do not know of any in any other establishment. There were no boilers that I remember there for the Texas; I have seen drawings for them, but I don't know if their construction had been commenced.

X Q. 2. Do you know what became of the boilers of the vessel in which the engines of the Texas had formerly been used?

Answer. I do not.

And further deponent saith not.

A. TALBOT.

285 Deposition of MAXWELL T. CLARK, sworn as aforesaid, on behalf of the United States, in reply to questions by H. H. Wells, esq.:

Q. 1. Please state your name, age, residence, and occupation.

Answer. Name, Maxwell T. Clark; age, 45; residence, Richmond, & by occupation a merchant.

Q. 2. State whether or not you placed the obstructions in the James River at Drury's.

Answer. I did, under the direction of Captain Farren, then the officer in charge at Drury's Bluff. This was in the spring of 1862, immediately after the evacution of Norfolk.

Q. 3. State what draft vessels could pass through those obstructions without coming in contact with them, before their removal, at high tide in the spring of 1865.

Answer. Any vessel drawing nine or ten feet, & at very high water, twelve feet.

Cross-examined by R. OULD, Esq., counsel for captors:

286 X Q. 1. Could any person at or about April 1st, 1865, pass through the obstructions at Drury's Bluff without knowing the location of the obstructions and the channel?

Answer. No, sir. These pens had been put down in two rows, & the gap that was first left open had been filled in by the steamer Jamestown, which was sunk in this gap, and a large mass of granite thrown on the top of it. The channel that was then open for the passage of boats commenced at the upper end, very near the northern shore, and bore diagonally across towards the southern side, just opposite to the steamer Northampton, which had been previously sunk at that point. Any vessels coming up the river not knowing the channel open would have run into the Northampton; on bearing off from that, into the obstructions.

MAXWELL T. CLARK.

Deposition of JOHN H. PARKER, sworn as aforesaid on behalf of the United States, in reply to questions by H. H. Wells, esq.

Question 1. Please state your name, age, residence, & occupation.

287 Answer. Name, John H. Parker; age, 53; residence, Chesterfield, Va., & occupation, farmer.

Q. 2. How were you employed in the early spring of 1865?

Answer. I was employed in the Confederate States Navy Department at Richmond; I was in the bureau of equipment & repairs, & had charge of the transportation on the river between Richmond & Drury's Bluff.

Q. 3. What knowledge or acquaintance had you with the Beaufort?

Answer. I have been on board of her a number of times on the river; I saw her frequently. Chas. J. Fox was, under my orders, not to draw any naval vessels on his railway without an order from me. I am under the impression that she was on the ways at the time of the evacuation of Richmond. My recollection is refreshed by the testimony of Mr. Fox on that subject. I had received orders to burn all the Confederate Government vessels, & she was excepted, because she was on private ways & near a large private ship. I do not know
288 how long she remained on the ways. I left Richmond on Monday morning, April 3d.

Q. 4. What, in your judgment, was a fair cash value for the Beaufort at the time of the evacuation?

Answer. For war purposes, about $30,000; for merchant purposes, about $12,000. I think she would have brought that if any one had required her for such purposes.

Q. 5. What would she have brought if put up for sale at that time & in the then condition of affairs?

Answer. From $12,000 to $15,000.

Q. 6. You state that you were in charge of the navy transportation from Richmond to Drury's Bluff. Who was immediately in command of the officers & men in the Confederate naval service in James River at that time?

Answer. I think Admiral Semmes.

Q. 7. When and where were those officers & men withdrawn from that service?

Answer. I don't know when they left their several stations.
289 They blew their vessels up and left with the Army, and I first saw them afterwards at Danville some two or three days after Lee's surrender. I heard explosions about 2 o'clock Sunday night that were said to be the blowing up of the vessels.

Cross-examined by R. OULDS, Esq., counsel for captors:

X Q. 1. Were there many stores in the navy-yards at the time of the evacuation?

(Objected to by counsel for the United States.)

Answer. Before the evacuation, not a great many. They were mostly in the naval storehouse which was not in the navy-yard. At the yard at Rocketts, on the Chesterfield side, there was a considerable quantity of lumber. On this side there was not a great deal—it had been used in building the Texas mostly—but there was some. Both yards were fired on Monday morning, about 4, a. m. In the Richmond yard, I don't know the extent of the destruction, as I never after visited it. On the other side I fired a vessel on the stocks, but not the timber. And further deponent saith not.

JOHN H. PARKER.

290 Deposition of JOHN J. CANNON, sworn as aforesaid on behalf of the United States, in reply to questions by H. H. Wells, esq.

Question 1. State your name, age, residence, and occupation.

Answer. Name, John J. Cannon; age, 49; residence, Richmond; & by occupation, a merchant.

Q. 2. Where were you employed about the 1st of April, 1865, & in what duty?

Answer. I was on the flagship Virginia, Confederate Navy, a seaman, lying at Graveyard Reach.

Q. 3. State what other Confederate ships were in that vicinity at that time, & what movement & disposition were made from Friday, March 31, 1865, up to the evacuation of Richmond, of the vessels composing the Confederate fleet.

Answer. The iron-clads Richmond, Fredericksburg, wooden gunboats Nansemond and Hampton were in the vicinity; nothing unusual was going on in the fleet from Friday to Sunday evening. The wooden 291 gunboats did patrol duty down the river to Little Devil's Reach, making a trip about every hour & a half. There were occasional shots exchanged between the ships & artillery on the shores, but I don't know if any took place during that time. Sunday there was no firing at all; I am pretty positive about that. The mailboat, the tug Torpedo, came down from Richmond, on Sunday, about 4, p. m., & shortly after she came down, there were orders given to clear all the encumbrances that were round the ships, such as spars & net-work, to protect them from torpedoes. All that was cleared away & the spars thrown overboard. The iron-clads Fredericksburg & Richmond came up to Drury's Bluff under steam, & my impression is that the wooden gunboats the Hampton & Nansemond, came up at the same time, but I am not positive of that. The Virginia, that I was on, remained in Graveyard Reach until after night some nine or ten o'clock. We then got under way and steamed up the river as far as Chaffin's Bluff, and run into the 292 steamer Texas with the torpedoes attached to the bow of our ship, the Virginia. The boom that the torpedo was on broke & the torpedo went to the bottom of the river doing no execution. We then ran into her two or three times with the prow of our ship. Struck her with the prow under the tuck or quarter of the Texas for the purpose of sinking her. We couldn't accomplish it & we left her & proceeded on to Drury's Bluff. The Texas was lying in the stream on the north side anchored and perhaps moored. It was about a mile below Drury's Bluff where the Texas lay. Our station before we moved up was about three miles below Drury's Bluff. From our station, before we moved up, to Little Devil's Reach below us was between two and three miles, & was about the lowest point of observation to which our boats went. The only obstructions placed in the James River by the Federals, were in Trent's Reach, seven or eight miles below Little Devil's Reach. I know of no other obstructions in the James River below Little Devil's Reach. A short time after arriving at Drury's Bluff, we got orders to take one shift of cloth's, the starboard watch first, and rations for some days and

293 the accoutrements of a soldier, & go ashore. We went on shore, first the starboard watch & afterwards the port watch. We then got on the admiral's barge, lying alongside the bank with a tug & remained there till 3 or 4 o'clock in the morning. I think we went ashore about midnight. About 3 or 4 o'clock we left Drury's Bluff & went up the river in the barge to Chesterfield, and landed nearly opposite Rocketts. After we got ashore at Drury's Bluff, about 12 o'clock Sunday night, orders were read out for the guns to be depressed, and the berth decks flooded, & while we were in the barge the explosion of the vessels took place. I can't say which was first. The Virginia was on the north side, hugging the shore, the other two iron-clads were in the obstructions about the center of the river, in the other channel, when the explosions took place. The explosions took place, as well as I can remember, about 2 o'clock Monday morning, April 3d. I think when we left Drury's Bluff everything else on shore had left or
294 been destroyed, but of that I know nothing positively. From Saturday, April 1st, up to the time we left Drury's Bluff there was no firing from the Federal fleet.

Q. 4. State, if you please, what the appearance & condition of the Texas was, as you saw her lying at Chaffin's Bluff, on Sunday.

Answer. She look' like the hull of a boat not finished, as I had seen her at Richmond after she was launched. There was no machinery in sight & I think there was none on her, for she was so light & bounded off when we struck her. I think if she had had machinery on board we would have sunk her. It was night when I saw her. I am sure there were no guns, & that she was not iron clad.

Q. 3. At or before the time when the Confederate ships were moved up, & the preparation made for their destruction, had you any knowledge or intimation of an advance or attack by the Federal fleet?

Answer. No, sir. We never had any such intimation. It was
295 the movement of General Lee's army that caused ours. We had no intimation that the Federal fleet were removing the obstructions below. I think, if such a thing had been known, I should have known it. I don't mean to say that the obstructions were not being removed, but I do mean that I don't think that fact was known to the Confederate fleet. On arriving at Chesterfield, between 6 & 7 o'clock Monday morning, we disembarked and started for the town of Manchester on the railroad track. The command was in front, & I walked in the rear on the track with Admiral Semmes. A messenger came up behind us and inquired what was to be done with the boat on the marine railway; his answer was "Let her stay there; let the enemy have her; she ain't of much account anyhow." As well as I remember that was what he said. The name of that boat was the Beaufort. We proceeded on to Manchester and then went from there to Danville. Admiral Semmes' force that went with us was between 500 & 600 men.

296 And further deponent saith not.

JOHN J. CANNON.

JAMES MEADES recalled, at the instance of counsel for captors:

Q. 1. Please tell us where the machinery destined for the Texas, other than the engines, was at the time of the evacuation of Richmond.

Answer. At Talbot & Brother's machine works. On' boiler was at the wharf at Rocketts, being prepared to be put on board the ship; the other boiler had not been brought down from the boiler shop.

Q. 2. What would you estimate the value of all the machinery destined for her, wherever located, in the state it was at the time of the evacuation?

(Objected to by counsel for the United States.)

Answer. Twenty-five thousand dollars.

Q. 3. What stores & material were there in the two yards belonging to the Confederate government at the time of the evacuation?

(Objected to by counsel for the U. S. States.)

297 Answer. At the yard in Rocketts, of which I was superintendant, there was a large quantity of oak plank and promiscuous oak timber. There were tools, jack screws, clamp screws, augurs, saws, blacksmith forges, saw-mill complete, everything in fact appertaining to building a ship. As to the other yard, I do not know what was in it.

Q. 4 Did the Confederate Navy Department use any other establisment in Richmond for its work besides Talbot's and the Tredagar?

(Objected to by the counsel for the U. S.)

Answer. It used Horgrave's tobacco factory for a joiner's shop. All the interior of a ship was manufactured there, in the woodwork, such as bulkheads, formation of state-rooms, magazine shell-rooms, shot lockers, & mess chests for the men. There was a quantity of white pine lumber on hand at the time of the evacuation.

Q. 5. What was the complement of officers & men for the Texas?

Answer. I do not know.

Q. 6. What was her proper armament?

298 Answer. Four 8-inch Brooke guns, one to be forward, one aft, and one on each broadside. I don't know that they were prepared for her. It takes 13 men to work each gun.

Q. 7. Were the stores and material in the yard at Rocketts entirely destroyed by the fire; &, if not, to what extent were they destroyed?

(Objected to by counsel for the United States.)

Answer. The blacksmith's shop was entirely destroyed with all its contents; the store room with all the tools was destroyed; the wood-workers shop with all its contents were destroyed; the saw-mill was partly destroyed. The oak plank was not destroyed nor the promiscuous lumber; that was gathered up by Captain Parker and shipped to Norfolk and marked "Prize property captured at Richmond."

Q. 8. Who took charge of the two navy-yards & the property therein after the evacuation?

(Objected to by counsel for the United States.)

299 Answer. I don't know. I don't know who had charge of it before the tenth of May; on that day I saw Captain Parker, of the U. S. Navy, with a party of laborers, gathering the material together. It was sent to Norfolk.

(All the foregoing testimony given by this witness on re-examination as to any property not found on board of either the Texas or the Beaufort is objected to.)

Re-examined by counsel for the United States:

Q. 1. State, if you can, the value of the material taken to Norfolk that you have spoken of that was not found on either the Texes or the Beaufort.

Answer. I do not know the number of cubic feet, consequently I cannot say what its was accurately; it might have been $5,000 & $6,000, but I cannot undertake to give its value within a thousand dollars.

JAMES MEADES.

The hour of adjournment having arrived the further taking of these depositions is continued until to morrow at 10 o'clock a. m.

M. F. PLEASANTS,
U. S. Comr.

300 U. S. COM'S OFFICE,
Richmond, February 3d, 1876.

Deposition of MOSES P. HANDY, sworn as aforesaid on behalf of the United States, in reply to questions by H. H. Wells, esq.:

Question 1. Please state your name, age, residence, & occupation.

Answer. Name, Moses P. Handy; age, 29; residence, Richmond, & by occupation, an editor.

Q. 2. State, if you pease, where you were, & in what service on or about April 1, 1865.

Answer. I was reserved courier, attached to the staff of Gen'l W. H. Stevens, chief engineer of the army of Northern Virginia, stationed at Gunn's farm, about 5 miles below Richmond on James River. On Sunday, April 2d, early in the morning, I was detained to take charge of a lot of wagons and teamsters to haul abatis from near Chaffin's Bluff to the trenches; while there, towards mid-day, an order came, to the best of my recollection, recalling us to camp. In the afternoon, between two & three o'clock, we understood that Richmond was to be 301 evacuated, and that evening towards dark I took a dispatch to the engineer's department at Drury's Bluff, which I understood contained orders for the evacuation of the works there. I crossed the bridge at Wilton's. There was some activity in the fleet there. I heard no firing at all at that time. I returned late at night & found our camp evacuated & everybody gone. I think it was about 11 o'clock. The main body of the troops had gone, & I understood the pickets were being withdrawn. I did not go below Drury's Bluff on the south side or Wilton's on the north. I returned to Richmond, arriving there soon aafter midnight. I was then posted at the Manchester side of Mayo's bridge, with orders to stay there until the last of the troops had passed over & the bridge was burned. We waited there until after daylight & near sunrise of Monday the 3d. Before all the troops had passed some of them reported that the Federal troops were in the city. 302 The bridge was fired not far from sunrise. We proceeded through Manchester to the Buckingham road, and while on the outskirts of Manchester we saw the Federal flag on the Capitol. During the night I heard some explosions that were suppose' to be the blowing up of the Confederate fleet. I saw none of the Federal fleet, and don't believe any had then come ,up, or I should have seen them.

M. P. HANDY.

Deposition of F. A. G. HANDY, sworn as aforesaid in behalf of the United States, in reply to questions by H. H. Wells, esq.:

Q. 1. State your name, age, residence, and occupation.

Answer. Name, F. A. G. Handy; age, 33; residence, Richmond; occupation, editor.

Q. 2. Where were you & how were you engaged about April 1st, 1865?

Answer. I was in command of a detachment of the Signal Corps, & was stationed on the flag-ship Virginia lying, on April 1st, in Graveyard Reach. The orders for the movement of the fleet passed 303 through my hands. I have an indistinct recollection that the

fleet captains were summoned on board the Virginia, and that afterwards an order was transmitted by signal for the wooden gunboats to go up the river to Drury's. I believe they went through the obstructions and anchored just above them; I am not certain of that, however. I don't remember when the Richmond & Fredericksburg went up, but I think they steamed up to Drury's some hours before the flagship Virginia cast off the barge that was alongside and got under way—which was in the early part of Sunday night, April 2d. Up to that time, during Saturday & Sunday, there was no firing from the Federal fleet or battery, to the best of my recollection. The lowest Confederate battery on the James River was at Howlett's, which was about 5 miles from where the Virginia lay. That battery could throw shells into Dutch Gap Canal, and was in the habit of doing so. The Federals had batteries on the south side of the river & at Butler's Tower, in the
304 lower part of Trent's Reach, to protect the works at the canal. I don't think the movement of the Confederate ships of war up to Drury's was owing in any degree to an advance or attack by the Federal naval force. I don't think the movements of the Federal Navy had any influence upon ours. I received during the day a dispatch from General Lee—I mean it passed through my hands—to the admiral, which informed him that the army would be withdrawn, & in which some reference was made to the destruction of the vessels, which took place on the night of that day. I cannot say that the order directed the destruction of the vessels. As the Virginia came up the river, we ran into the Texas near Chaffin's Bluff, and attempted to sink her. The Texas was very light, and careened over and bounded off. The attempt was repeated once certainly, & possibly oftener. The effort being unsuccessful, the Virginia proceeded on up the river to Drury's. I think the Texas was broken from her moorings, and drifted off. After
305 arriving at Drury's, preparations were made to blow up the vessels, and they were blown up and destroyed about two o'clock Monday morning. A little before two the Fredericksburg, which was ahead of us, blew up. All of the crew of the Virginia, but two or three officers, landed on the right bank; I was in the last boat that left her, & had not gone far up the bank when she blew up. Some little time after, another one blew up, & that was the last I heard. I came up to Richmond & landed on the Manchester side, opposite Rockett's. From there we walked up the bank to the end of Mayo's bridge. On our way up to Manchester I saw the Beaufort on the ways. Arriving at Manchester, a train was made up & we proceeded on to Amelia & Da'ville.

Cross-examined by ROBERT OULD, esq., counsel for captors:

X Q. 1. What Confederate batteries were then on the south side of James River, below Drury's?

306 Answer. There was a mortar battery on the flat opposite Dutch Gap Canal, placed there to retard the works on the canal. This was commanded by Colonel Poague. There was another battery at Howlitt's of heavy artillery. I think Howlitt's was about a mile below Poague's battery, in an air-line. The battery at Howlitt's commanded the obstructions at Trent's Reach. I don't know when the batteries at Howlitt's and the flat were evacuated.

F. A. G. HANDY.

Deposition of CHARLES J. FOX, jr., sworn as aforesaid on behalf of the United States, in reply to question' by H. H. Wells, esq.:

Q. 1. Please state your name, age, residence, and occupation.

Answer. Name, Charles J. Fox, jr.; age, 28; residence, Richmond; occupation, ship carpenter.

Q. 2. Where were you, and how were you engaged, about April 1st, 1865?

Answer. I was then at the marine railway, opposite Rockett's, under the control of the Confederate Navy Department, as an engineer. I knew the Beaufort on Saturday, April 1st. She was on the marine railway. She had been on then, I am confident, fully a week 307 prior to the evacuation of the city. She remained on the ways fully four or five days after the evacuation on Monday. My impression is that we launched her on the Saturday after the evacuation. I had been in the habit of seeing the Beaufort, on an average, once a week for two years. I think a fair cash value of the Beaufort at the time of the evacuation would be between $15,000 & $15,500, exclusive of her gun, the value of which I don't know. She carried one gun forward, & that is all the gun she carried. I recollect that on Monday morning, the morning of the evacuation, at about 9 o'clock, one man, representing himself as a lieutenant, a military & not a naval officer, came over to the marine railway in a boat rowed by five or six soldiers. As soon as he landed he came to me as I was standing at the foot of the ladder leaning against the vessel, and asked me if I was one of the crew of the boat, or belonged aboard her. I said, "No." He 308 then asked me who I was, & I told him I was the engineer of the railway on which the boat was. He then asked me what had become of the crew. I told him they had left her. He then asked me where were the boat's flags. I told him I didn't know, but supposed they were in the pilot's house or captain's room. He then went aboard with his men, and took the boat's flags and signals and two navy pistols. They then left. My strong impression is that the next visite from any Federal authority was on Wednesday morning, April 5th, between 9 & 12 o'clock. I am confident, because no Federal boat came up the river on Monday or Tuesday, but on Wednesday a Federal naval officer came and took authority, and gave orders concerning the Beaufort as to what we were to do with her. There was then, on Wednesday morning, a Federal vessel lying in the river about 50 yards above our place, anchored in the channel. She was the Maumee; she was not a double-ender. I think she came before the double-ender, and 309 I think the officer who gave us orders as to the Beaufort was an officer off the Maumee. When the Beaufort was on the ways, & when she was launched, there was no lumber on board of her. The officer from the Maumee came frequently to our place, and protected our property from depredations by soldiers of the Army. When the Beaufort was launched, the United States Navy Department took charge of her; she went away in a day or two after she was launched. No cargo was put on board of her before she went away, so far as I know. She was so filled up forward, aft, & below that it was impossible for her to take any cargo on board.

C. J. FOX, JR.

Deposition of JOHN R. CUMBEA, sworn as aforesaid on behalf of the United States, in reply to questions by H. H. Wells, esq.:

Question 1. State your name, age, residence, and occupation.

310 Answer. Name, John R. Cumbea; age, 39; residence, Richmond; occupation, machinist.

Q. 2. Where were you & how were you engaged about the 1st of April, 1865?

Answer. I was engineer in the Confederate States Navy, on duty running a dispatch boat from Richmond to Drury's Bluff & the Confederate fleet. I knew the Beaufort & had worked on her machinery when employed at the shops in Richmond, corner of 17th & Cary streets, & had seen her every day for nine months previous to April 1st. On that day she was on the railway. She had been there a week or thereabouts prior to the evacuation. I don't know how long she remained on the ways after that; I didn't go down town till the 14th; I don't remember whether she was then on the ways or not, but I do remember that the Federal gunboat was anchored off the railway from where the Beaufort was at that time. I don't know what guns she carried. I think her cash value was about $10,000. I knew the Texas, but was never 311 aboard her. If I saw her after she went down the river I only saw her once, and she was then anchored near Chaffin's Bluff. We were in the habit of landing four or five hundred feet below her while she lay at Rockets. While laying there she had no timber on board that I could see, so far as I remember.

JOHN R. CUMBEA.

Deposition of THOMAS L. SKINNER, sworn as aforesaid on behalf of the United States, in reply to questions by H. H. Wells, esq.

Q. 1. State your name, age, residence, & occupation.

Answer. Name, Thomas L. Skinner; age, 38; residence, Richmond; occupation, member of city police.

Q. 2. Where were you & what duty were you doing about the 1st of April, 1865?

Answer. I was an officer—a lieutenant on the Fredericksburg. On Saturday, April 1st, our ship was at Graveyard Reach. The first preparations for coming up the river were made on Sunday afternoon, April 2d, about 2 o'clock. We got orders to hold ourselves in readiness 312 in case we should have to evacuate. We got up to Drury's between 11 & 12 o'clock, Sunday night. The ship was blown up between 2 & 3 o'clock Monday morning. The officers & men were mostly landed on the south side; a few were landed on the north side. I landed at Drury's. From there I came up the river & landed on the Manchester side, opposite Rocketts, about 6 o'clock in the morning. There was no firing on Friday, Saturday, or Sunday between the Federal and Confederate ships. I have no recollection of any firing between the batteries on those days. The immediate cause of the moving up of the Confederate fleet was the movement of the Army. It was not caused by any attack of the Federal fleet. I did not know of any movement of the Federal fleet on Friday, Saturday, or Sunday. On arriving at Richmond I remained there; I think the first Federal vessel came up on Wednesday, but I cannot say of my own knowledge. Five or six days after the evacuation I went down the river & saw the 313 Texas lying on the flats on the south side of the river opposite Chaffin's Bluff. When we came up the river on Sunday, the 2d, she was below the obstructions & between Drury and Chaffin's Bluff. When I saw her four or five days after the evacuation there was nothing on board of her except her propeller & shaft which were put in her when launched. She was all open. No armament, timber, or men were on board. She was ashore on the flats. I knew the Beaufort, and saw her on the marine railway on Monday morning, when we arrived at Manchester. I don't know how long she remained there, but for several days certainly.

Cross-examined by R. OULD, Esq., counsel for captors:

X Q. 1. Are you confident there was no firing from the shore Confederate batteries on Saturday & Sunday, before the evacuation, especially at the flats & at Howlitt's?

Answer. It is impossible for me now to say whether there was
314 or not, but hardly a day passed without firing. And further deponent saith not.

THOMAS L. SKINNER.

JOHN J. CANNON, recalled at the instance of counsel for captors.

Q. 1. As a general thing was there daily firing from one or the other of the Confederate shore batteries below Drury's Bluff?

Answer. We had a battery below Drury's Bluff called Wagner's battery, three-quarters of a mile below. There was not daily firing from that battery. Up to a month or so before the evacuation there was firing every 15 minutes at night from the battery on the flat opposite Dutch Gap into Dutch Gap, to interrupt the work. How much longer it continued, or whether it continued up to the evacuation I don't know. As to the firing of the battery at Howlitt's I don't know whether it was of every-day occurrence or not.

JOHN J. CANNON.

315 Deposition of EDWIN TURNER, sworn as aforesaid on behalf of the United States, in reply to questions by H. H. Wells, esq.

Q. 1. State your name, age, residence, & occupation.

Name, Edwin Turner; age, 26; residence, Richmond; occupation, engineer.

Q. 2. Where were you & how employed on or about April 1st, 1865?

Answer. I was on the Confederate gunboat Beaufort, as captain' coxswain. The Beaufort was on the ways at Mr. Fox's marine railway on the morning of the evacuation; she had been there about two weeks, & remained there, I think, about two weeks after. She carried one iron gun forward at that time. There were two Federal vessels came up the river on the day of the evacuation, Monday the 3d, one of them was a tug-boat, I think. Several came up on Tuesday; among them was the Maumee. The Federal vessels that came up on Monday were not war vessels. I know the Maumee came up on Tuesday, the day after the
evacuation. I knew the Maumee because I had seen her & been
316 chased by her off the coast of New York when I was on board of
the Tallahassee. Both the Federal vessels that came up Monday were small tugs, I think, with no armament. They came up in the evening.

EDWIN TURNER.

Deposition of JOHN R. POCKLINGTON, sworn as aforesaid on behalf of the United States, in reply to questions by counsel for the United States.

Q. 1. State your name, age, residence, & occupation.

Answer. Name, John R. Pecklington; age, 43; residence, Richmond; occupation, ship-carpenter.

Q. 2. Where were you, & what duty were you doing, on Saturday, Sunday, & Monday, April 1st, 2d, & 3d, 1865?

Answer. On Saturday I was working in the Confederate navy-yard, in charge of Mr. Wm. A. Graves, on the Manchester side of the James River, opposite Rocketts. On Sunday I was at home, when, at about 2 o'clock, Captain Brown, who commanded a company made up of the workmen at the yard, notified me that the company was ordered

317 out. I went to the armory, got my accoutrement, & went after my rations under these orders. I went back home, stayed there till 5½ p. m., then got a boat & went to Drury's Island, a mile below Rocketts, & remained there till 2 o'clock Monday morning. During the night I heard the explosions of the iron-clads down the river. Then I went home, got something to eat, got my boat, & again went down the river, about daylight, as far as Tree Hill Bridge, a little over a mile below Rocketts. I staid there until about 10 o'clock. I was on & about the river pretty much all day. I stayed at home all night. Tuesday morning I was on the dock when two Federal boats came up. One was a steamer that had come up in advance of the fleet to feel for torpedoes. The other was the one President Lincoln came in. I don't know their names. I can state on my own personal knowledge that no Federal vessel came up to Rocketts before Tuesday morning at 8 o'clock.

318 And further deponent saith not.

JOHN R. POCKLINGTON.

There being no further witnesses produced, the taking of these depositions was here finally concluded.

M. F. PLEASANTS,
U. S. Com'r.

I, M. F. Pleasants, commissioner of the circuit court of the United States for the eastern district of Virginia, do hereby certify that the foregoing depositions of W. A. Graves, Z. C. Gifford, Chas. E. Bragdon, James Meades, Charles J. Fox, Thomas Cunningham, W. H. Taylor, A. Talbot, M. T. Clarke, John H. Parker, John J. Cannon, M. P. Handy, F. A. G. Handy, C. J. Fox, jr., John R. Cumbea, Thomas L. Skinner, Edwin Turner, and John R. Pocklington were taken by me, at the place and time therein specified, in pursuance of the stipulations hereto annexed; that when taken they were then and there reduced to writing by me in the presence of said deponents, and by them respectively subscribed, in my presence.

319 I further certify that I was attended on each and every sitting by H. H. Wells, esq., of counsel for the United States, and by Robert Ould, esq., counsel for captors.

I further certify that I am not of counsel nor attorney to either of the parties in this suit, nor interested in the event of this cause.

I further certify that I have retained said depositions for the purpose of being sealed up by me and speedily transmitted by the United States mail to the supreme court of the district of Columbia, for which they were taken, and to remain under my seal until there opened.

Given under my hand at Richmond, in said district, this third day of Feb., 1876.

M. F. PLEASANTS,
U. S. Commissioner E. dis't Va.

Fee for taking these depositions, $50.90.

320 In the supreme court of the District of Columbia. In admiralty.

THE UNITED STATES, ON BEHALF OF THE officers and men of the North Atlantic squadron,
versus
THE IRON-CLAD RAM & SHIP OF WAR TEXAS and ten others.
} No. 269.

To the supreme court of the District of Columbia, sitting in admiralty:

By an order of this court passed on the 23d day of November, 1875, this cause was referred to me with instructions to report the amount of expenses and costs in this cause, together with the names of the parties to whom the same is payable, and as well to report the values of said property as now appears from the testimony in this case, and case No. 268 of the district court docket; and the said commissioner 321 is further directed to ascertain and report whether the said Texas, Beaufort, and the said machinery and lumber so taken for the use of the United States was appraised and inventoried by the proper authorities of the United States, as required under existing law (Revised Stat., p. 906, sec. 4624), and if so appraised and inventoried, then such appraisal and inventory will be considered when properly authenticated as part of the proofs in this cause."

In pursuance of this order, due notice was given to Hon. H. H. Wells, U. S. dist. attorney for the District of Columbia, and to Messrs. R. M. Corwine & Sons, proctors for libellants, who appeared before me in behalf of the interests they severally represent.

The libellants having obtained permission to submit further proofs produced before me Admiral D. D. Porter, and Lt. Commander H. H. Gorringe of the U. S. Navy, who were by me severally sworn, and their testimony herewith reported.

322 The order herein directs me to report the amount of expenses and costs in this cause, together with the names of the parties to whom the same is payable. I cannot with any degree of certainty determine the amount of costs and expenses incurred, or the parties to whom the same is due and payable. I therefore recommend it be made a matter for future reference and report.

I am also directed to report the values of said property as now appears from the testimony in this case and case No. 268, of the District court docket.

I find the proofs in regard to the value of the Texas substantially as follows:

Admiral Porter estimates her, including her machinery, as worth six hundred thousand dollars. Lt. Commander Gorringe values the vessel and her machinery at five hundred thousand dollars. John M. 323 Brooke, commander in the Confederate navy, and in charge of the office of ordenance and hydrography, estimates her of the value affixed by Admiral Porter. Homer C. Blake, captain in the U. S. Navy, at the present time, states that three hundred thousand dollars was a low estimate for the Texas, and that she could not be built for that sum, as it is manifest that Captain Blake himself regarded his estimate as less than her cost. I accept the estimate of Admiral Porter, Lt. Commander Gorringe, and Commander Brooke, as to her value, and find it to be five hundred sixty-six thousand six hundred and sixty-six dollars and sixty six cents ($566,666.66).

In relation to the value of the Beaufort, I find that Admiral Porter, Captain Blake, and Commander Brooke each estimate her value at sixty thousand dollars; that Lt. Commander Gorringe values her as 324 worth one hundred thousand dollars, and Commander Loyall, of the Confederate navy, estimates her value at forty thousand dollars. I therefore report her value at sixty thousand dollars ($60,000). It appears by reports of file in the Navy Department, copies of which are hereto appended, that the Texas, on the 22d of June, 1865, was appraised at $91,220.00, and that the Beaufort, on the 7th Sept., 1865, was appraised at $2,000.00. It also further appears from memoranda and entries in the books of the Navy Dep't, that on the 15th day of October, 1867, the Texas was sold at the Norfolk navy-yard for the sum of three thousand

two hundred dollars, and that on the 15th day of September, 1865, the Beaufort was sold at the Washington navy yard, for the sum of three thousand eight hundred & fifty dollars; but in neither case is the manner of sale or the name of the purchaser disclosed. In view of what ap-
pears, and all that appears of file or of record in the Navy
325 Dep't, in regard to the transactions had with reference to this
property, it is clear to my mind that the appraisal and sale of these vessels was so unjust and improper and so inconsistent with established historical facts, and that those having the matter in charge so failed in their duty to the captors, to the government, and to its public records that I cannot regard the record of these transactions as entitled to any consideration in determining the fair value of those vessels, nor can it be admitted in any proper sense as showing a compliance with the requirements of section 4624 of the Revised Statutes.

I find that there was valuable property on board of and captured with the Texas, consisting in part of iron plating, machinery, munitions of war, anchors, chains, and guns, all of which the government took pos-
session of—a considerable portion of which appears to be ac-
326 counted for in an inventory and appraisal on file in the Navy
Dep't, an authenticated copy of which is appended hereto, and which I adopt as fixing the value of the property therein referred to at one hundred and fifteen thousand four hundred and fifty-five dollars ($115,455); also, there was on board and captured with the Texas a large quantity of valuable lumber. The files of the Navy Department show that this lumber was taken and used by the government; that it was partially inventoried, but not appraised. The testimony herein fixes its value at one hundred & fifty thousand dollars, and which I adopt as being its value.

In conclusion I refer to schedule A, hereto appended, as showing my finding as to the value of the Texas, with the value of the property on board, and the Beaufort, captured by the North Atlantic Squadron, as charged in the libel herein.

All of which is respectfully submitted.

Dec. 8, 1875.

THOMAS HOOD,
Commissioner.

327 SCHEDULE A.

Value of the Texas	$566. 666 66
" " iron plating	115, 455 00
" " lumber	150, 000 00
" " the Beaufort	60, 000 00
Total	$892, 121 66c

THOMAS HOOD,
Commissioner.

DEC. 8, 1875.

328 In the supreme court of the District of Columbia.

THE UNITED STATES, IN BEHALF OF THE OFFICERS & MEN OF THE NORTH ATLANTIC SQUADRON,
vs.
THE SEA VESSEL OF WAR SEABOARD & TEN OTHERS.
} No. 268.

THE UNITED STATES, IN BEHALF OF THE OFFICERS & Men of the North Atlantic Squadron,
vs. } No. 269.
THE IRON-CLAD RAM & SHIP OF WAR TEXAS and Ten Others.

Before the auditor of the court.

HENRY H. GORRINGE sworn.

Examined by counsel for proctors, the counsel for the government being present.

Q. What is your occupation?

A. Lieut. commander U. S. Navy.

Q. State where you were, and what position you occupied on the 1st, 2d, 3d, and 4th of April, 1865.

A. Well, the exact dates I cannot remember, but the circum-
329 stances will recall it. Either the evening before or the evening
of the 1st of April, at any rate, it was at City Point, lying near the north shore.

Q. State what vessel you commanded.

A. I commanded the United States man-of-war the Monticello, and a signal was made by Admiral Porter to come on board his vessel. I went on board and received orders to proceed up the river to the upper fleet, then lying in the vicinity of the Dutch Gap Canal—the United States fleet—the lower end of the Dutch Gap Canal—and order the senior officer to clear out the obstructions in the river just above, so that the fleet could pass, and as soon as the channel was made to go on up the river and attack the enemy's vessels. If in the mean time he had not arrived, he ordered me personally to take charge of clearing out the obstructions until other persons should come and attack the boats. I delivered the admiral's orders, and went up with the Monticello,
330 as far as I could go, to remove the torpedoes, piles, and wrecks
that were sunk in the river. I arrived at the fleet in the early morning. I think it was the 1st of April. We worked all that day, assisted by about fifteen boats, I think, and their crews, and cleared a channel. Firing all the time was kept up by the hundred-pounder Parrott on my own vessel, and the fifteen-inch guns on the monitors, and the next morning early, before 10 o'clock, a channel was cleared, and, without waiting for further orders, I pushed on up the river just as hard as I could go, and in the mean time I had sent a message down to the senior officer that the channel was cleared and that I had passed on up. The obstruction extended over a space in detached parts of three-fourths of a mile. The first firing was done by the monitors across
Dutch Gap in a direction up the river. My firing was at a
331 battery, and occasionally at a vessel apparently reconnoitering,
an enemy's vessel. During the night when we were clearing away the obstructions, we were alarmed by a supposed attack, when the boats were recalled and a message sent to the senior officer of the Monticello to clear for action. The alarm was caused by a report from up the river of the advance of the Confederate fleet. Subsequent to this, and a little before daylight we heard loud noises and saw explosions, which I subsequently learned were caused by the destruction of the enemy's vessels. As soon as the channel was cleared the Monticello, under my command, pushed on up the river as fast as we could go. We passed a gunboat, which we found out subsequently was the Beaufort, and a large vessel, plated and armored, lying alongside of the bank, which was

subsequently reported as the Texas. The Beaufort was in
332 apparently good order and fighting trim. The Texas was moored
to the bank and nearer to a shed, and she had her guns mounted, and was apparently in fighting trim too. As to the Texas, a train had been laid for her destruction. That I remember very distinctly. A train had been laid for her destruction by the enemy, and had failed, and she was there alongside of the bank when taken possession of. It was taken possession of by order of Admiral Porter. My impression is that it was his personal order, and at any rate by order of the naval authorities. A boat's crew from one of the monitors that had been engaged in removing the obstruction took possession. My impression is the Beaufort was taken possession of in the same way. The advanced vessel of the rebel fleet was about three and a half miles by the channel of the river when we commenced removing obstructions, and
333 she was in sight of our monitors below Drury's Bluff, and not over a
mile and a half or a mile and a quarter in a direct line, and occasionally coming nearer. The other vessels, to the best of my knowledge and belief, were below Graveyard Reach, under the guns of a battery, which was about two miles in direct line from our monitors, and about six or seven miles by the channel of the river. From Graveyard Reach to Drury's Bluff, I should judge it was about four miles, and from Drury's Bluff to Richmond, five miles. The Monticello pushed on up with the remaining vessels of the fleet as fast as they could get ready. The Monticello was in advance, and kept in advance until we grounded on the Rockets, about two miles below Richmond, when several of the vessels passed us, but the monitors remained below, as word had been sent
334 to them that the Confederate vessels had been destroyed. The Army
was operating in the vicinity of Petersburg, in a direction northwest from Richmond, and none of the United States forces, except the Navy, were engaged in this operation of capturing these vessels. There were no Federal soldiers or officers on or near these captured vessels—the Texas and Beaufort—not one. There was on the Texas a large amount of lumber on her sides and on her stern, and some on board of the Beaufort. The next day, or very immediately afterwards, I sent in a prize list of the officers and men of the Monticello. A prize list is a list and description of the officers and men on board the vessel entitled to share in the money awarded for capture, and this was a proper prize list of the Monticello, which vessel I had command of. Weitzel's army at the time of the capture of these war ships was not less than six to ten
335 miles in a straight line from the position of the fleet that was destroyed, and we saw no Federal soldiers, and knew of no Federal command that could have influenced this capture.

I file herewith as a part of my testimony a preliminary chart of James River, with notes and memoranda made upon them, marked Exhibit A 1, and signed by me.

The court then adjourned until 2 o'clock to-morrow.

336 U. S. NAVY DEPARTMENT,
Washington, D. C., Nov. 30, 1875.

I hereby certify that the annexed, as per endorsement or certificate of Vice-Admiral D. D. Porter, is a true copy of a report made by him to the department, April 5, 1865, the original of which has been mislaid, and published with the annual report of the Secretary of the Navy in December, 1865.

JOHN W. HOGG,
Chief Clerk.

Be it known that John W. Hogg, whose name is signed to the above certificate, is now, and was at the time of so signing, chief clerk in the Navy Department, and that full faith and credit are due to all his official attestations as such.

In testimony whereof, I have hereunto subscribed my name, and caused the seal *seal* of the Navy Department of the United States to be affixed, at the city of Washington, this thirtieth day of 337 November, in the year of our Lord one thousand eight hundred and seventy-five, and of the Independence of the United States the one hundredth.

GEO. M. ROBESON,
Secretary of the Navy.

338 (Copy.)

NORTH ATLANTIC SQUADRON,
UNITED STATES FLAGSHIP MALVERN,
April 5, 1865.

SIR: As the movements here have been of a military character, and have been regularly reported to the War Department, I have not deemed it necessary to report anything to the department. After I was satisfied that the rebels were about to evacuate Richmond, I commenced removing the obstructions below Howlett's Battery, and in the course of the night after succeeded in getting a channel through and removed the torpedoes. The gunboats moved up to Drury's, where the obstructions again presented a bar to further progress.

On the 4th of April I accompanied the President up to Richmond, where he was received with the strongest demonstrations of joy. We found that the rebel rams and gunboats had all been blown up 339 with the exception of an unfinished ram, the Texas, and a small tug gunboat, the Beaufort, mounting one gun.

The following is a list of the vessels destroyed: Virginia, flagship, four guns (iron-clad); Richmond, four guns (iron-clad); Fredericksburg, four guns (iron-clad); Nansemond, two guns (wooden); Hampton, two guns (wooden); Roanoke, one gun (wooden); Torpedo (tender); Shrapnel; Patrick Henry (school-ship). Some of them are in sight above water and may be raised. They partly obstruct the channel where they are now, and will either have to be raised or blown up. The Beaufort and Texas I have taken for the use of the Navy. Tredegar Works and the Naval Ordnance Depot remain untouched.

Very respectfully, your ob't serv't,
(Signed) DAVID D. PORTER,
Rear-Admiral.

Honorable GIDEON WELLS,
Secretary of the Navy.

WASHINGTON, D. C., *Nov.* 30, 1875.

I certify that the within is a true copy.

DAVID D. PORTER,
Admiral.

340 WASHINGTON, D. C., *December* 2, 1875.

Admiral DAVID D. PORTER sworn.

Examined by counsel for the proctor:

Q. What knowledge have you of the capture of the iron clad ram ship-of-war Texas, and the steamer Beaufort, by the forces under your command in the fore part of April, 1865?

A. They were both captured by the forces under my command when they ascended the James River, April 2, 1865. They were taken possession of by my orders, and manned by men belonging to my squadron.

Q. Do you know about the capture of the Seaboard?

A. No, sir.

Q. Go on and state whether these two vessels were afloat at the time they were taken or not.

A. They were afloat, and I believe the Texas had a great deal of valuable property on board of her. It was estimated at that time
341 to be worth about $300,000, in addition to the value of the vessel itself.

Q. Do you remember anything about the lumber that was on board of her?

A. Yes, sir; she had a large amount and the government took possession of and used it. I sent it down to Norfolk myself. The government used it for their own purposes as well as all the iron and machinery, and sold the rafters and pocketed the proceeds. She had also on board a large amount of iron-plating and munitions of war, and anchors, and chains, and guns, which the government likewise took possession of.

Q. No account was ever made to you, or anybody else in the Navy, so far as you know?

A. No, sir; the government derived all the benefit from the vessel. They never had her condemned, but took possession of her and
342 held her for their own benefit, and never gave the captors a cent
that ever I heard of. I will state that the Army was not certainly within five or six miles of the river, on either side, and could not have taken possession of these vessels, and did not take any part in taking possession of the vessels. The going up the river was strictly a naval enterprise, and the operation against the gunboats was strictly a naval enterprise.

Q. Please explain what you mean, in the copy of a letter attached to the deposition of John M. Brooke, in these cases, when you estimate the value of the Texas at $180,000. Does that apply to the whole vessel, or to a portion, and, if only a portion, what portion?

A. It applies only to her hull, and is a very small estimate at that. The vessel completed would have been worth $1,500,000. The Texas, at a low estimate, was worth $300,000 dollars, as previously stated by me in my deposition. Her machinery was also worth about
343 $300,000. I, also, desire here to repeat what I have said in my
former deposition with regard to the Beaufort, that $60,000 was a very low estimate. In my former deposition I stated that the lumber on board of the Texas was worth about $150,000; I desire to have my deposition corrected in that respect, and place the estimate at what the government has, $142,000. I will state that I have seen the appraisement, as made by the authority of the government, in some report that was made to Congress. The estimate as to the value of the material and ship was the value at the time.

By Mr. WELLS, counsel for government:

Q. Will you be kind enough to look at this paper (handing witness a paper) and state if that is the report you made at the time?

A. Yes, sir.

(Paper introduced in evidence, made a part thereof, and marked Exhibit ——)

By counsel for the proctor, Mr. CORWINE:

344 Q. Did you mean to say in this report which has been shown you that the Army had anything to do with your attack upon the enemy's fleet, or rendered you any assistance therein?

A. I say it was purely a naval movement altogether; that we were not operating in connection with the Army at all. I will state that Mr. Gorringe forwarded his prizes through me, and the commanders of all the vessels forwarded their prizes, as is customary, and I transmitted them to the department.

I here desire to correct the foregoing deposition, so far as to say that I understood the question as to the valuation and appraisement to apply to the lumber, when it should have been the machinery. I, therefore, now say that it should be the machinery which I estimated at $142,550,
based upon the report of the board, and I adhere to my estimate
345 of the value of the lumber, viz, at least one hundred and fifty
thousand dollars. I desire the list hereunto attached to go as an exhibit to my deposition as showing the vessels which took part in the engagement, and which are entitled to share in the prize and bounty money herein.

United States flag-ship Malvern.
“ “ ship Casco.
“ “ “ Kansas.
“ “ “ Delaware.
“ “ “ Spuyten Duyvel.
“ “ “ Sassacus.
“ “ “ Pequot.
“ “ “ Eutaw.
“ “ “ Chippewa.
“ “ “ Atlanta.
“ “ “ Onondago.
“ “ “ Monticello.

In addition to the above, I beg leave to say that I directed a large amount of captured naval machinery to be sent down the James River to Norfolk, where it was taken for the use of the government.

DAVID D. PORTER,
Admiral.

346 Sworn and subscribed before me this 7th day of December, A. D. 1875.

THOMAS HOOD,
Auditor.

347 U. S. NAVY DEPARTMENT,
Washington, D. C., Dec. 7, 1875.

I hereby certify that the annexed is a true copy from the files of this department of a report of appraisal of machinery and material captured by the naval forces at Richmond, dated May 26, 1865.

JNO. N. HOGG,
Chief Clerk.

Be it known that John W. Hogg, whose name is signed to the above certificate, is now, and was at the time of so signing, chief clerk in the Navy Department, and that full faith and credit are due to all his official attestations as such.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the Navy Department of the United States to be affixed, at the city of Washington, this seventh day of December, in the year of our Lord, one thousand eight hundred and seventy-five, and of the Independence of the United States the one hundredth.

[SEAL.]. GEO. M. ROBESON,
Secretary of the Navy.

348 (*Copy.*)

U. S. IRON-CLAD ONONDAGA,
Off Norfolk, Va., May 18th, 1865.

SIR: In obedience to your order of the 14th ultimo would respectfully enclose in duplicate invoices, the appraised value of the steam machinery and material found at the late so-called "Confederate Naval Works," and captured by the Navy by the fall of Richmond.

Very respectfully, your ob'd't servants,
ALEXANDER HENDERSON,
Chief Eng'r.
WM. L. NICHOLL, *2d Asst. Eng'r.*
CURTIS STANTON, *Act'g* " "

Acting Rear-Admiral WILLIAM RADFORD, U. S. N.,
Comd'g North Atlantic Squadron, Hampton Roads, Va.

Respectfully forwarded.

WM. RADFORD,
A. R. Admiral.

349 U. S. I. C. ONONDAGA,
May 26, 1865.

SIR: We would respectfully submit the following description of the machinery and material captured by the naval forces at Richmond, together with an apprizement of the same:

Two sets direct-action condensing engines, 26″ cyl. and 20 stroke	$60,000 00
Two cylinders, 30″ diam. and 28″ stroke and frames, with details for four high-pressure engines	$10,000 00
One unfinished back action non-condensing engine, 20″ cyl. & 20 stroke, with patterns complete	$3,000 00
One set non-condensing engines, 17″ cyl. & 19″ stroke	$12,500 00
350 One set condensing oscillating engines, 7″ cyl. & 6½″ stroke	$1,500 00
Another similar set nearly finished	$1,200 00
Two other unfinished sets	$600 00
Two cylindrical tubular boilers, 16′ 00″ long & 7′ 00″ diam	$4,000 00
One return flue boiler, 16′ 00″ long & 7″ in diam	$4,000 00
Two return flue boilers, 22′ 00″ long & 8′ 2″ diam	$11,000 00
One small boiler, locomotive style	$750 00
Another similar boiler, without cocks, valves, &c	$600 00
Two others, unfinished	$750 00
One right and three left hand propellers, 7′ 00″ diam.	$1,200 00
One left-hand propeller, 7′ 00″ diam	$100 00
351 One right & one left-hand propellers 8′ 4″ diam	$300 00

One right-hand propeller 6′ 6″ diam	$750 00
One right-hand propeller 26″ diam	$100 00
One right-hand propeller 34″ diam	$150 00
Another similar propeller fitted	$150 00
One Woodward pump	$300 00
Two "Guild, Garrison & Co.'s" pumps	$400 00
750 boiler tubes	$525 00
80 sheets ¼″ boiler plate	$1,280 00
Twelve 3½″ Kingston valves	$300 00

Very respectfully, your ob'd't serv'ts,

ALEXANDER HENDERSON,
Chief Engineer.
WM. L. NICHOLL,
2d Ass't Engineer.
CURTIS STANTON,
Act'g 2d Ass't Engineer.

Act'g Rear-Admiral WM. RADFORD, U. S. N.,
Com'd'g North Atlantic Squadron.

Respectfully forwarded.

WM. RADFORD,
A. R. Admiral.

352 *Reports of appraisal of Texas at Norfolk, Va., June 22, 1865; Beaufort at Washington, Sept. 7, 1865.*

353 (Copy.)

No. 32.]

COMMANDANT'S OFFICE,
U. S. NAVY-YARD, NORFOLK,
June 16, 1865.

GENTLEMEN: Be pleased to examine carefully the Texas, late rebel ram, and give in triplicate an estimate of the fair value of that vessel as she stands; also, an estimate of the probable cost of repairs. Let your report embrace a general description of the vessel and her dimensions.

Very respectfully,

J. M. BERRIEN,
Commandant Naval Station, Norfolk.

Naval Constructor, ISAIAH HANSCOM,
Lieut. Commander E. K. OWEN, U. S. N.,
Chief Engineer JOHN H. LONG, U. S. N.,
Navy Yard, Norfolk, Va.

354 (Copy.)

U. S. NAVY-YARD,
Norfolk, Va., June 22d, 1865.

SIR: In obedience to your order annexed we have carefully examined the Texas, late rebel ram, and respectfully submit the following estimate of her present worth and cost, to finish with a general description of the vessel and her dimensions:

Present worth of hull	$55,220 00
Do. do. machinery	36,000 00
	$91,220 00

Cost of finishing		iron plating	$78,198 00
Do.	do.	hull	38,650 00
Do.	do.	machinery	10,000 00
			$126,848 00

The dimensions of the vessel are as follows, viz: Extreme length, 217
feet; extreme breadth, 48 ft. 6 in.; depth of hold from top of beam to
top of floor, 13 ft.; load draft about 13 ft. 6 in's. The Texas is a new
vessel, built in a substantial manner of yellow pine and fastened
355 with iron and tree nails. None of the internal work has been
done or the casemate erected. A small portion of the bow has
been plated. Model very good; much like the Columbia. The iron
plating (prize property) received at this yard from Wilmington, N. C.,
is nearly prepared for putting on and will answer well for this vessel.

The machinery consists of two pairs of horizontal direct acting condensing engines connected to separate propellers that have been used, nearly complete with the exception of floor plates, railings, ladders, &c.

Diameter of cylinder, 26 in's; length of stroke, 20 in's; diameter of
propellers, pitch and number of blades not ascertained; diameter of
shaft, 6¼ in's. There are two return flue boilers; two furnaces in each;
length of boilers, 22 ft.; breadth, 8 ft. 4 in's; height, 9 ft. 1 inch; diameter of shell, 8 ft. 4 in's; length of furnace, 7 ft.; width, 3 ft. 5½
356 in's; area of grate surface, 96.8 square ft. Number of lower flues
in each boiler, 18; diameter of lower flues, 14 ft. 6½ in's, 2 ft. 7½
in's, and 2 ft. 8½ in's. Number of return flues in each boiler, 16; diameter of return flues, 6½ in's. Time required to complete hull and machinery, four months.

Very respectfully, your ob'd't serv'ts,

ISAIAH HANSCOM,
Naval Constructor.
E. K. OWEN,
Lt. Commander.
JOHN H. LONG,
Chief Engineer.

Captain JNO. M. BERRIEN,
Commandant Navy-Yard.

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357 (Copy.)

NAVY YARD, WASHINGTON,
September 7, 1865.

Commodore J. B. MONTGOMERY,
Com'd't Navy Yard:

SIR: In obedience to your order, we have surveyed the following named vessels with a view to estimate what they should bring at public sale, viz:

U. S. streamer King Philip.—The King Philip is a wooden side-wheel steamer; hull needs caulking; engine and boiler in tolerably good order; diameter of cylinder, 40 inches; stroke of piston, 9 ft. 6 in.; dimensions, length 204 ft., breadth 22 ft. 11 in., depth 8 ft., and in our opinion should bring at public sale ten thousand dollars.

Tug Beaufort.—The Beaufort is an iron propeller; has a single engine; diameter of cylinder 22 inches, stroke of piston 22 inches; hull needs extensive repairs; dimensions, length 85 ft., breadth 17 ft.

358 5 in., depth 6 ft. 11 in., and in our opinion should bring at public sale two thousand dollars.

We are, very respectfully, your ob't serv'ts,

(Signed) GEO. B. BALCH, *Commander*.
WM. TALBERT, *Master Carpenter*.
G. R. WILSON, *Master Mach.*

Respectfully referred to Bureau of Construction & Repair for its information.

(Signed) J. B. MONTGOMERY,
Commandant.

359 *Timber received at Norfolk yard in* 1865, *which was captured at Richmond, Va.*

360 (Copy.)

No. 172.]
U. S. NAVY YARD,
Norfolk, August 31, 1865.

SIR: In compliance with the bureau's letter of the 21st August, I forward a statement of the timber and other materials for naval purposes appertaining to the Bureau of Construction, &c., taken at Richmond under the President's proclamation, as far as it has been received, to this date.

I have the honor to be, sir, your ob't servant,

J. M. BERRIEN,
Captain, Comm'd'g Naval Station, Norfolk.

JOHN LENTHALL, Esq.,
Chief of Bureau of Construction, &c., Washington, D. C.

361 (Copy.)

No. 45.]
U. S. NAVY YARD, NORFOLK,
August 30, 1865.

SIR: In accordance with your order, I beg leave to report the following as the am't of timber delivered at this yard by the following vessels from Richmond:

By sch'r Monteven:

1,276 cubic feet white-oak timber.
44,993 feet, board measure, white-oak plank.
104 cubic feet yellow-pine timber.
5 6 in. white-oak knees, according to regulation.
30 8-in. do. do. not " " "
1 steering wheel (new).
1 do. do. (old).

By sch'r Hattie Combs:

4,800 cubic feet white-oak timber.
188 feet, b'd measure, white oak plank.

By sch'r J. J. F. Farland:

374 cubic feet yellow-pine timber (for casemates).
156 " " white-oak do. " "
162 " " promiscuous w. oak do., " "
564 " " worked white-oak futtocks.
848 " " promiscuous w. oak timber.

80 white-oak knees (condemned).
12 do. do. do., according to regulations.
229-inch do. do., not " " "
362 Making an aggregate of—
7,806 cubic feet of white-oak timber.
45,181 feet, board measure, " " plank.
378 cubic feet yellow-pine timber.
356 white oak knees, & 2 steering wheels.

NOTE.—The cubic white oak varies in length from 9 to 30 feet; in the knees from 7 to 16 inches; in width from 9 to 20 inches.

The white-oak plank in length from 10 to 50 feet; in width from 7 to 16 inches; in thickness from 1½ to 4½ inches.

The cubic yellow pine in length from 20 to 26 feet; in thickness from 10 to 12 inches; in width from 11 to 12 inches.

Very respectfully,

G. RICH. BOUSH,
Foreman Carp'r's Dept.

Captain JOHN M. BERRIEN,
Comm'd'g Navy Yard, Norfolk.

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363 (Copy.)

No. 179.] U. S. NAVY-YARD, NORFOLK,
September 6, 1865.

SIR: I have the honor to forward to the bureau a statement of the amount of timber for naval purposes brought to this yard from Richmond, by the schooner Calista, the timber being a portion of that taken under the President's proclamation.

Very respectfully, I am, sir, your ob't servant,

J. M. BERRIEN,
Captain, Comm'd'g Naval Station, Norfolk.

JOHN LENTHALL, Esq.,
Chief of Bureau of Construction, &c., Washington, D. C.

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364 No. 47.] NAVY-YARD, NORFOLK,
Sept. 6th, 1865.

SIR: The following shows the am't of timber delivered at this yard by sch'r Calista, from Richmond:

6,538 feet white-oak plank (b'd measure).
3,067 cubic feet " timber.
35 cubic " yellow pine " (for casemates).

NOTE.—The white-oak plank is in lengths from 12 to 39 feet; in thickness from 2½ to 4½ inches.

The cubic white oak is in lengths from 9 to 42 feet; in width and thickness from 7 to 19 inches.

Very respectfully, &c.,

G. RICH. BOUSH,
Act'g Master Carpenter.

Capt. JOHN M. BERRIEN,
Comm'd'g Navy-Yard, Norfolk, Va.

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365 (Copy.)

No. 199.] U. S. NAVY-YARD, NORFOLK,
September 30, 1865.

SIR: In compliance with instructions contained in the bureau's letter of the 21st ultimo, I forward the statement enclosed of timber for naval purposes, taken at Richmond under the President's proclamation, and delivered at this yard.

I have the honor to be, sir, your ob't servant,

(S'g'd) J. M. BERRIEN,
Captain Comm'd'g Naval Station, Norfolk.

JOHN LENTHALL, Esq.,
Chief of Bureau of Construction, &c., Washington, D. C.

366 NAVAL CONSTRUCTOR'S OFFICE,
U. S. Navy-Yard, Norfolk, Sept. 30, 1865.

SIR: There has been landed at this yard, from on board schooner David A. Berry, from the city of Richmond, Virginia, 6,245 feet, cubic, white oak lumber, varying in length from 6 to 39 feet, in width from 8 to 22 inches, and in thickness from 5 to 19 inches.

Very respectfully submitted.

I. HANSCOM,
Naval Constructor.

Capt. JOHN M. BERRIEN,
Commandant Navy-Yard, Norfolk, Va.

367 Supreme court of the District of Columbia. In admiralty.

THE UNITED STATES ON BEHALF OF THE officers and men of the North Atlantic Squadron
vs. No. 268.
THE STEAM VESSEL OF WAR SEABOARD, and ten others.

This cause coming on for hearing upon the proofs and agreements of counsel for the United States and captors, and being fully advised in the premises, the court doth find the following facts, viz:

That on the 2d day of April, 1865, a naval engagement took place on the James River, which is an arm of the sea, and navigable to ships of more than twenty tons burthen, near Richmond, Virginia, between the North Atlantic Squadron of the United States Navy and the naval forces composing a part of the Confederate naval fleet then and there engaged in defending said city.

368 That the vessels composing said North Atlantic Squadron, which took part in said engagement, were the following, viz: Malvern, Monadnock, Casco, Kansas, Delaware, Spuyten Devil, Pequot, Sassacus, Eutaw, Chippewa, Atlanta, Onondaga, Monticello.

That the number of men so engaged on said vessels was .

That the vessels of said Confederate fleet which took part in said en-
gagement were the following, viz: Fredricksburg, Richmond, Vir-
369 ginia, Texas, Nansemond, Hampton, Drury, Beaufort, Roanoke,
Patrick Henry, Shrapnell, Seaboard, Torpedo.

All of which vessels were sunk or otherwise destroyed in said engagement by said United States fleet, except the iron-clad ship of war Texas and the steamer Beaufort, which were captured and taken possession of by the United States fleet aforesaid.

That the number of men belonging to and operating said Confederate vessels and defenses, which were man'ed and operated by a portion of said Confederate fleet or navy, at the commencement of said engagement, was 1,322, and in the batteries & other adjuncts 2,000, which force was superior to that of the United States so engaged.

That the officers and men of said North Atlantic squadron are
370 entitled to bounty money at the rate of two hundred (200) dollars per head for each and every man comprising the Confederate forces and those who were on board said Confederate vessels at the time of the commencement of said engagement.

This cause is therefore referred to Thomas Hood, esq., commissioner of this court, to ascertain and report the costs and expenses in this case as now appears from the testimony in this and case No. 269 of the district court docket, and the auditor will ascertain & report how many & what vessels of the United States are to participate in this fund.

Washington, D. C., November 23, '75.

D. C. HUMPHREYS,
Justice.

Filed Nov. 23, 1875.

371 Supreme court of the District of Columbia.

THE UNITED STATES, ON BEHALF OF THE officers & men of the North Atlantic Squadron,
vs.
THE

THE UNITED STATES, ON BEHALF OF
vs.

Now come the libellants & captors, by their proctors, and move the court for leave to take further testimony in the above named cases before the commissioner of this court.

R. M. CORWINE & SON,
Proctors for Libellants.

Leave is given as moved for, and the auditor and commissioner, Thomas Hood, will examine such witnesses as may be produced.

D. C. HUMPHREYS.

Filed Nov. 30, 1875.

372 In the supreme court of the District of Columbia, sitting in admiralty.

UNITED STATES, FOR, &C.,
vs.
SHIP OF WAR TEXAS & OTHERS, &C., &C.
Admiralty. No. 268, 269, 270.

This cause having come on to be heard on the motion of the proctors for the captors and complainants, and the att'y for the United States, having been done in opposition to said motion and Enoch Totten, esq., and J. F. Manning, esq., having been heard in support, it is this 29th day of June 1876, ordered that said motion be and the same hereby is overruled, and the said causes are hereby set for final hearing on the 30th day of June, 1876.

Filed June 29, 1876.

373 In the supreme court of the District of Columbia, holding an admiralty court.

THE UNITED STATES ON BEHALF OF THE OFFICERS and men of the North Atlantic squadron
vs.
THE STEAM VESSEL OF WAR SEABOARD AND ten others.
} In admiralty. No. 268.

And now comes the United States by its counsel, H. H. Wells, and moves the court to dismiss the libel in the above entitled cause.

H. H. WELLS,
For the U. S.

Filed June 30, 1876.

SAME
vs.
SAME.

JUNE 30TH, 1876.

This cause coming on to be heard, and having been argued by counsel, it is by the court ordered, adjudged, and decreed that the libel filed in said cause be and the same is dismissed.

D. C. HUMPHREYS,
Justice.

MEMO.: Handed by me, District Attorney Wells, Nov. 17, 1876.

R. J. MEIGS.

374 In the supreme court of the District of Columbia, holding U. S. district court.

THE UNITED STATES ON BEHALF OF, &C.,
vs.
THE SEABOARD ET AL.
} No. 268. Admiralty dock.

And come the captors in the above cause by their proctors, Enoch Totten and Quinton Corwine, and appeal to the general term of this court from the order made in this cause in this court on the 29th day of June, 1876, denying the motion of said captors for an enlargement of the time in said cause to take additional testimony, and also fixing the 30th day of June, 1876, for the final hearing of this cause.

ENOCH TOTTEN,
QUINTON CORWINE,
Proctors for Captors.

Filed June 30, 1876.

375 In the supreme court of the District of Columbia.

UNITED STATES ON BEHALF, &C.,
vs.
STEAM VESSEL OF WAR SEABOARD & OTHERS.
} No. 268. In admiralty.

And now come the said captors by their proctors, Enoch Totten and Quinton Corwine, and appeal to the general term of the court from the order of the court entered in this court on the 30th day of June, 1876, dismissing the libel.

ENOCH TOTTEN,
QUINTON CORWINE,
Proctors for Captors.

Filed July 8, 1876.

376 In the supreme court of the District of Columbia.

Admiralty.

U. S.
vs.
SEABOARD. } 268.

SAME
vs.
TEXAS. } 269.

And now, in open court this 18th day of May, 1877, come the said captors and claimants, and move the court to strike out and hold for naught the log-book or copies thereof, filed herein by the district attorney of the U. S., and for reasons say that such documents are not competent evidence for the purpose of these cases.

ENOCH TOTTEN,
Att'y & for Capt's, &c.

Filed May 18, 1877.

377 In the supreme court of the District of Columbia.—In general term.

THE UNITED STATES ON BEHALF OF OFFICERS and men of the North Atlantic Squadron
vs.
THE STEAM VESSEL OF WAR, SEABOARD AND ten others. } No. 268. In admiralty.

This cause coming on to be heard on appeal, and the court in general term having heard the allegations of the parties, and the proofs taken in the cause, and the arguments of the counsel for the respective parties, and having duly considered the same, doth now order, adjudge and decree that the decree of consum'ation entered in the court below, on November 28, 1876, be, and the same is hereby, reversed, set aside and held for naught, and that the libel filed in this cause be, and the same is hereby, dismissed.

Filed May 21, 1877.

378 In the supreme court of the District of Columbia.

THE UNITED STATES ON BEHALF OF THE OFFICERS & men of the North Atlantic Squadron
vs.
THE SEABOARD AND OTHER VESSELS. } No. 268. Admiralty.

And now come the said captors, the officers and men of the North Atlantic Squadron, by their proctors, Quinton Corwine and Enoch Totten, and appeal to the Supreme Court of the United States from the decree of the general term of this court rendered against them on the 21st day of May, 1877.

ENOCH TOTTEN.
QUINTON CORWINE.

Filed June 11, 1877.

379 MAXWELL T. CLARK, being first duly sworn, in reply to interrogatories by proctors for libellants, deposes and says as follows, viz:

Question 1. What is your name, age, residence and occupation?

A. My name is Maxwell T. Clark; age, 45; residence, Richmond, Va.; business, tobacconist.

Q. 2. Please state what your occupation was during the late war of the rebellion, and particularly during the years 1864 and 1865.

A. I was in the Confederate navy in 1874 as a lieutenant, commanding the steamer Roanoke, on James River; from April, 1864, to April, 1865, I was in Petersburg, in charge of some naval works, a rope-walk and cotton factory.

Q. 3. Please state if you are familiar with the strength of the forces of the Confederate States engaged in the defence of Richmond, on the James River and tributaries, during the year 1865.

A. Partially so; my knowledge is based on the fact that the 380 same steamers which were on the river in 1864, when I commanded one of the steamers, were still in existence and acting in the defence of the city in 1865. This refers to all of the year 1865 up to April 2.

Q. 4. Please state as near as you can what vessels and rams composed the fleet of the Confederate States at that time on the James River and what forts or batteries were used, giving as near as you can the number of men on these vessels and in these forts and batteries.

A. The steamers were the iron-clads Richmond, Fredericksburg, and Virginia; three wooden gunboats, the Nansemond, Hampton, and Drewry; two smaller boats built of sheet-iron, the Beaufort and Roanoke. The steamer Patrick Henry was used as a school-ship, lying just below Richmond; the number of men on these steamers were in the aggregate from 900 to 1,000; the number of guns was about 34. There were three small torpedo boats also; the Shrapnel was 381 one, the others I think had no names. I was only familiar with the forces at Drewry's Bluff, comprising a battery of nine (9) guns and from 450 to 500 men.

Q. 5. Were these forts and batteries and the men engaged in and about them assisting in the defence of Richmond supporting the fleet?

A. They were.

Q. 6. What obstructions were placed in the river by the Confederate authorities, and at what points, to prevent the approach or passage of the Union fleet?

A. At Drewry's Bluff there was a chain of square cribs, filled with granite, placed across the river and supported by piles; there were three steamers also sunk there, the Roanoke (not the one I commanded, but one formerly running from Richmond to New York), the Northampton, and the Curtis Peck, and the hulk of an old sailing vessel was also sunk there; these obstruction were formidable, in my opinion impassable. 382 I base my knowledge of these obstructions on the fact that I was engaged in locating them. I personally had charge of the work of sinking the cribs and steamers.

Q. 7. Are the James and York Rivers arms of the sea and navigable to vessels of twenty tons burden?

A. They are.

Q. 8. What other batteries did you know of on the river engaged in this defence, and about how many men were engaged in them?

A. Chapin's Bluff and Howlett's battery were the most formidable; there were other smaller batteries, the names of which I do not remember; in the two named there were about as many men as at Drewry's Bluff.

Q. 10. Is there anything else that you can say that would be of advantage to any of the parties in interest?

A. There were two navy-yards, one on each side of the river (James), just
below Richmond. I was familiar with the one on the right bank;
383 I had charge of it at one time, it was used for constructing vessels
and employed about one hundred men; they were engaged in constructing vessels during the years 1864 and 1865; there was a ship-joining establishment on the left bank of the river at which there was a large quantity of lumber. And further deponent sayeth not.

MAXWELL T. CLARK.

There being no other witnesses in attendance the further taking of these depositions is adjourned until to-morrow at 10.30 a. m.

384 FRIDAY, *May* 21, 1875.

Present, same as before.

JOHN H. PARKER, being first duly sworn, deposes and says as follows:

Question 1. What is your age, residence, and occupation?

A. My age is 52; residence, Chesterfield County, Va.; and occupation, farming.

Q. 2. Please state what your occupation was during the late war of the rebellion, particularly during the year 1865.

A. I was in the naval service of the Confederate States; in the bureau of equipment and supplies, up to the evacuation of Richmond.

Q. 3. Please state if you are familiar with the strength of the forces of the Confederate States engaged in the defence of Richmond on the James River and tributaries during the year 1865.

A. Not very; although I know something of it. In addition to having charge of the bureau of repairs and supplies, I was in command of
the navy-yard at Rocketts, in Chesterfield County, just below Rich-
385 mond, and in charge also of the transportation of the navy de-
partment between Richmond and Drewry's Bluff. I had about 100 men in my charge at the navy-yard on an average. I was familiar with the three iron-clads Richmond, Fredericksburg, and Virginia. These were large and powerful vessels, each carrying 6 guns, 4-in., broadside, and one at each end. I think these guns were 68 pounders. They carried a crew of about 180 men each, they having quite a number of supernumeraries, more than was required for the actual number of guns, but necessary to repel boarders, and supply losses, &c. These vessels were blown up, as I understood, to prevent their falling into the hands of the enemy. The school-ship Patrick Henry had, I think, four broadside guns and carried about 40 men, in addition to midshipmen, while serving as a school-ship. I do not know the strength of her crew before that. I destroyed her to keep her from falling into the enemy's hands.

386 Q. 4. What was the character and strength of the obstructions

placed in the James River to prevent the approach and passage of the Union fleet?

A. There were a vast number of tons of granite sunk in the river and put into cribs, and vessels were sunk. Chains were stretched across, as I understood. These obstructions were very formidable, in my opinion; these obstructions were there when Richmond was evacuated. In the navy-yard on this side of the river, in Henrico County, there were about the same number of men employed as in the one on the other side.

And further deponent sayeth not.

JNO. H. PARKER.

I, M. F. Pleasants, commissioner of the circuit court of the United
States for the eastern district of Virginia, do hereby certify that the
foregoing depositions were taken, subscribed, and sworn to before
387 me, at the time and place mentioned therein; and I further cer-
tify that no one was present save the witnesses and counsel here-
tofore mentioned.

Witness my hand this 21st day of May, A. D. 1875.

M. F. PLEASANTS,
U. S. Comm'r, E. Dist. Va.

388 Captain KIDDER R. BREESE, having been duly sworn, was
examined by Mr. Corwine, of counsel for captors, and deposed as
follows:

Q. 1. State your name, age, and residence.

A. Kidder R. Breese, captain, U. S. Navy, at present commanding torpedo station at Newport, R. I.

Q. 2. Where were you in the fore part of April, 1865, and what position did you then occupy, or what business were you engaged in?

A. I was attached to the North Atlantic squadron in the capacity of fleet captain, and chief of staff of Admiral Porter, commanding the squadron, and was living on board the flagship, the Malvern, in and about James River.

Q. 3. By whose orders was the movement up the James River, in the fore part of April, 1865, made?

A. By Admiral Porter's.

Q. 4. Please give your knowledge of the movements of the North
Atlantic squadron at that time, and state as nearly as you can the
date of the order and by whom it was given.

389 A. I don't recollect the precise date or the day of the week;
but my recollection of it is, that early in the morning Admiral
Porter received a dispatch or rumor, or something, that it was supposed
that Richmond was being evacuated, and he immediately telegraphed
an order up to a station on James River, at Trent's Reach, to Capt.
Ronckendorff, who was senior naval officer in command there, to pro-
ceed up the James River with all the vessels under his command, tak-
ing particular care to drag the river for torpedoes and see that no acci-
dents should happen. That dispatch went off, I should think, about
eight o'clock in the morning. About four o'clock in the afternoon the
usual mail-tug came down the river to City Point, and I asked the cap-
tain of her how far the vessels had gotten up the river. He said that
they had not started at all from Howlett's. I reported it at once to
Admiral Porter, who was very indignant that his orders had not
390 been obeyed, and he directed me to proceed at once and take
charge in his name of all the vessels there, and give such orders
as I thought were necessary to move at once towards Richmond; and

accordingly I went up the river in the tug, and got there about eight o'clock in the evening and went on board Capt. Ronckendorff's vessel. I asked him why he had not gone up the river, and he said he was not satisfied in his own mind that the batteries had been evacuated by the rebels and didn't think it was safe to move until he was satisfied of that fact; and it was not until three o'clock in the afternoon when he took a boat and went up the river, and visited some of the batteries himself. He found they were evacuated, and then he thought as it was so far advanced he would not do anything until next day. I told him Admiral Porter was displeased, and what my orders were, and 391 asked him to give order to the commanding officers to send out at once in boats to drag the river for torpedoes, and have the vessels move up behind them as fast as they could. That was done, and about nine o'clock in the evening the dragging of the river commenced. Capt. Chandler and myself took the tug that I went up on and proceeded up the river as far as we thought Drewry's Bluff; but of that I am not quite certain. It was in the dark, and we could not see very well. The next evening I took my boat and pulled up the river to Richmond, and landed there, and went up to Gen. Weitzel's headquarters, which at that time were in Jeff. Davis' house. I understand that Gen. Weitzel had only reached Richmond that morning.

(Judge Sanger, counsel for respondents, objected to the last sentence of the answer.)

A. (Continued.) I found Gen. Weitzel occupying Jeff. Davis' house. I saw no soldiers at all on my way to his headquarters; and on 392 my way to the river I met Admiral Porter and President Lincoln going up in the direction of Gen. Weitzel's headquarters. On reaching the river, I found the Malvern, the flagship, was there, and, I think, one or two gunboats.

Q. 5. Where was this?

A. That was off Richmond. Shortly after I returned to the ship Admiral Porter and the President returned, and Admiral Porter directed me to take him down to City Point in his barge, in tow of a tug. Upon reflection I think I did not take the President down to City Point until the next day.

Q. 6. As fleet captain, to whom did you give the first order to move up the river, or to what vessel? Please be as accurate as you can.

A. I have no recollection about that.

Q. 7. Do you remember giving an order to Capt. Parker, of the Maumee, or Commander Gorringe, of the Monticello?

A. No, I don't remember giving any order to them, although 393 possibly I did, quite possible, very probable, as they would receive their orders through me.

Q. 8. Do you remember giving Chief Engineer Henderson any orders that morning?

A. It appears to me I do have some indistinct recollection about it. It was to proceed with the Spuytzendevil to assist in removing obstructions. That is my recollection. I do not recollect it positively. Anything like verbal orders would have been given by me, and at that time I know I gave a great many orders to vessels, but I don't recollect what ones.

Q. 9. Do you know what captures were made by the squadron in its advance up the river on those days?

A. I only know of two. One was an unfinished vessel called the Texas and a tug in the rebel quartermaster's department, and I think an old side-wheel veteran that was in use as a naval school-ship, just below Richmond.

Q. 10. Was the Texas, when you saw her, afloat?

A. Yes, sir; I went on board of her with Mr. Lincoln on my return from Richmond.

394 Q. 11. Have you any knowledge of the value of vessels of that kind?

A. Nothing more than estimate on my part.

Q. 12. Give your estimate of the value of the Texas as you then saw her.

(Objected to by Judge Sanger.)

A. I should think as she was when I saw her she was worth in the neighborhood of $100,000.

Q. 13. Do you include in that estimate anything in the way of machinery?

A. No; not at all. Nothing but simply the hull.

Q. 14. What do you suppose was the value of this tug-boat you speak of?

A. About $12,000, I should think.

Q. 15. Do you know anything about the relative strength of the forces of the Confederate navy, as made up then of the men in the batteries and on the vessels, and the forces of our fleet?

A. Well, yes.

Q. 16. In other wordes, which do you suppose was the stronger of the two in numbers?

395 A. Why, in numbers our squadron far exceeded the rebel squadron.

Q. 17. That is those on the vessels?

A. Yes, sir; and the number of vessels.

Q. 18. I am including in my statement the number of men manning the batteries, as well as those on the vessels.

A. Under those circumstances I think the Confederates had the greatest number. They garrisoned the whole of Drewry's Bluff, and I think some other fortifications along the river; but I know that they garrisoned Drewry's Bluff; the navy.

Q. 19. Do you remember of seeing a boat called the Beaufort?

A. I don't remember her now. I think I saw everything that was to be seen in Richmond at the time; but I don't recall that vessel by name.

Q. 20. Do you know anything of the capture of machinery or other material?

A. I went through the rebel navy-yard and saw this large quantity of material there, and my impression was that I reported to Admiral
396 Porter that there was a large quantity of ordnance material particularly, and instruments that ought to belong to the Navy.

Q. 21. Was any machinery or lumber or other materials sent by your orders to Norfolk after evacuation?

A. None by my orders. I had no authority to give any orders of that kind, and if I did give them they were in Admiral Porter's name; I know that he gave orders to that effect.

Q. 22. About how long was the North Atlantic squadron engaged in its operations or James River?

A. Almost from the commencement of the war up to the very end, more or less; James River from Newport News was occupied, more or less, by the squadron during the whole war.

Q. 23. Were there engagements or skirmishes between the contending naval forces on the James River during this period?

A. Yes; frequent.

Q. 24. Up to what time do you suppose?

397 A. Up to just—well, they ceased altogether about the time that we received the news of the supposed evacuation of Richmond. Prior to that time occasionally shot and shell came in among the headmost vessels lying in James River.

Q. 25. What was the character of the obstructions in the James River?

A. Mostly sunken vessels.

Q. 26. Any torpedoes?

A. There were a great many torpedoes, and of those that were exploded by electricity there was no difficulty in finding their whereabouts and getting them to the bank; but there were a great many that it was very difficult to grapple from the manner in which they were moored. They were what we call "buoyant torpedoes," and the grappling irons and chains that were used in grappling them would drag over them without picking them up, so that very few of those were taken from the river.

Q. 27. Had the Army about or near Richmond anything to do with the movement of the Navy up the river at this time?

A. Nothing.

398 Q. 28. Did the Navy move by instructions from any military authority at this time?

A. No; we never received any instructions from the Army.

Q. 29. Was the Army within assisting distance at this time?

A. No; not at all.

Q. 30. When your advanced vessels got to Richmond did you find the Army or any portion of it in possession of property that was claimed by the Navy?

A. No; not at all. When I got to Richmond I saw no soldiers at all until I got in the neighborhood of "Jeff. Davis' mansion," as it was called—Gen. Weitzel's headquarters—and I inquired my way there from negroes in the street.

Q. 31. Do you know what was then done with this Texas?

A. I understood that she was sent to Norfolk; I don't know anything about it myself. I might say here that, owing to my taking Mr Lincoln down to City Point from Richmond I was a very little 399 while in Richmond on my first visit. I was not there more than three or four hours, and a large part of that time I spent in Gen. Weitzel's headquarters. But I returned to Richmond some time afterwards when the city was in the possession of the troops, and, what was termed "the navy-yard" was being ransacked by our people for naval material.

Q. 32. Was there anything to prevent the escape of the rebel fleet down the James River other than the North Atlantic squadron at this time?

A. No; nothing whatever.

Q. 33. Then did they not blow up their vessels and obstruct the river because of the approach of the North Atlantic squadron at that time?

A. Well, that is a matter of opinion, I fancy. On my part I think they blew them up to obstruct the river and keep them from falling into the hands of the Navy. They destroyed their vessels, and they made the next best half to themselves of them by obstructing the river, and it was done to keep them from falling into the hands of the Navy.

400 Q. 34. Could not the inhabitants of Richmond and the army of

the Confederacy thereabouts have escaped down the river but for the presence of the North Atlantic squadron?

A. Well, I don't think they could, because the Army would have probably moved in along the river to prevent them. They would have been aware of such a movement. But if the citizens and the Confederate army could all have gotten on board the rebel iron-clads they could have gone down the river without any prevention, except for the North Atlantic squadron.

Q. 35. Is the James River an arm of the sea, and navigable for ships of twenty-tons burden and upwards?

A. Oh, yes.

Q. 36. Does the tide ebb and flow at Richmond?

A. Yes.

Cross-examined by Judge SANGER on behalf of the United States:

1. Cross-q. Do you know of that matter of your own knowledge, that the tide does make up to Richmond?

A. Yes, I do, in this way: My recollection is that on going
401 up the river and down again we had quite serious times in going
through the drawbridges, owing to the different times of tides.
The upper bridge was only a few miles below Richmond, so it must have
been felt there at Richmond.

2. Cross-q. Are you able to name the day of the week or day of the month when Admiral Porter gave you these orders?

A. No, sir; I am not. I can't recall it, except in connection with other matters.

3. Cross-q. By reckoning backwards, it was so many days before the President got to Richmond?

A. It was the day before the President got to Richmond that Admiral Porter gave the order to the squadron to move up—early in the morning of that day.

4. Cross q. How long had you been in Richmond when you saw President Lincoln?

A. I had been there, perhaps, two or three hours.

5. Cross-q. How long did he remain in Richmond?

A. I don't believe he was there more than two hours; I can't tell that exactly, because I don't know when he arrived.

402 6. Cross q. Did you take him from Richmond?

A. I took him from Richmond to City Point.

7. Cross q. How did you go immediately from Richmond?

A. In the admiral's barge, in tow of a tug, which was a favorite way of Mr. Lincoln going about on the river.

8. Cross-q. You took him to City Point, over the whole distance?

A. Yes, sir.

9. Cross-q. At this time what was the condition of the fire? A considerable portion of Richmond had been burned, had it not?

A. Yes. In nine places it was just smoldering, but the greater part of it was out.

10. Cross q. Do you know, as a matter of fact, how long that fire burned?

A. No; I don't.

11. Cross-q. But it had covered a good deal of the city?

A. Yes; quite a large portion.

12. Cross-q. It must have been, from the extent of territory burned over, certainly twenty-four or twenty-eight hours before that?

403 A. That I can't tell; I never was in Richmond; I don't know

anything of the character of the houses. If they were wood they might have been burned very quickly; if they were of stone or brick, would of course have taken a greater length of time.

13. Cross-q. Did you go on board the Texas from the barge?

A. From the barge, on my way down the river.

14. Cross-q. How far down from the city was it, should you say?

A. Well, I have no recollection as to the distance.

15. Cross q. As to the time after you left the city, how long were you going down?

A. I don't recollect how long we were going down. It was in the afternoon, and we went on board of the Texas—I should think about 6 o'clock in the afternoon. That is my recollection.

16. Cross q. That would be how long after you left the city?

A. Well, perhaps an hour; I can't state that positively, but I should think, as near as I can recollect, about that time.

17. Cross-q. And when you were going down, you were going in tow of a tug down the stream?

404 A. In tow of a tug down the stream; but, of course, the tug going at a moderate speed on account of towing the boat behind.

18. Cross-q. At what rate should you think?

A. I should think we must have been going four or five miles by the boat, and I don't know whether the tide was fair or ahead; that would make a difference.

19. Cross-q. There was no machinery in the Texas?

A. No machinery that I saw.

20. Cross-q. Nothing but her hull?

A. I think there was some lumber; I don't recollect about that. My impression is there was some lumber, and I think a little iron for plating her, but of that I am not sure. There was no great amount.

21. Cross-q. How is it that you are able to fix $100,000 as her estimated value?

A. I judge from the manner in which the hull was built. She seemed to be very strong, indeed; and I should think it would cost to build a vessel of that kind about that amount of money, judging from
405 gunboats that were built in the West during the war, which I was more or less familiar with—not so large as that by a good deal.

22. Cross-q. You made no examination of her?

A. Only in a cursory manner; that was all.

23. Cross-q. You were in attendance on the President there?

A. I was at that time.

24. Cross-q. How long did you stay on board?

A. I should suppose that we were there perhaps—well, certainly fifteen minutes. Time enough to go all over her.

25. Cross-q. What were you doing while you were there?

A. Walking about, looking. Mr. Lincoln was conversing in his usual way.

26. Cross-q. What became of the tug that you saw?

A. She was put in charge of an officer and some men; and on her way down the river to report to Admiral Porter she struck some of the obstructions at Drewry's Bluff and was sunk.

27. Cross-q. That tugboat was not, then, the Beaufort?

A. No, sir; I fancy not.

28. Cross-q. You have no recollection of seeing the Beaufort?

406 A. No; I can't recall her now.

29. Cross-q. Do you know of any officer or man of the Army being in possession of any of those vessels before you got up there?

A. I never have heard of any, and I don't think they could have been, because I should have seen them if they had been.

30. Cross-q. When you went up the river you went by the tug as far as Drewry's Bluff, and then by boat.

A. No; then I returned again. I went up at night as far as Drewry's Bluff and then returned to the squadron, when the boats were dragging up the river, and the gunboats following behind, and remained there until early in the morning and then took tug again and started up with my boat, and left the tug and went up the river in my boat.

31. Cross-q. Where did you leave the tug?

A. I think about Drewry's Bluff with the squadron there.

32. Cross-q. When you speak of your boat, you mean what?

407 A. The six-oared gig.

33. Cross-q. And you were the first naval officer who went up?

A. The first.

34. Cross-q. You left all the naval officers at Drewry's?

A. No; they were engaged in dragging the river for torpedoes, and their vessels following close behind the boats.

35. Cross-q. But below Drewry's?

A. I can't say positively where I left them when I left it, but somewheres about Drewry's Bluff; might be a little above or a little below; I can't tell.

36. Cross-q. Were you among them?

A. I left them entirely and went on in the boat by myself.

37. Cross-q. Did you leave them in the tug going up?

A. No; I left the tug with them; left the whole party with my boat.

38. Cross-q. That was near Drewry's Bluff?

A. Somewhere near.

39. Cross-q. How long were you going up from Drewry's Bluff in your boat to Richmond?

A. I can't tell exactly; I have no positive recollection about it.
408 Probably started off very early, at daylight in the morning.

40. Cross-q. Your best recollection, sir.

A. My recollection is that I got up to Richmond about 11 o'clock in the morning.

41. Cross-q. What time did you leave Drewry's Bluff?

A. I can't fix it.

42. Cross-q. Before sunrise?

A. Oh, no; after sunrise; somewhere in the morning; but I can't fix exactly the time. It was in the morning.

43. Cross-q. How far is Drewry's Bluff below Richmond?

A. I don't recollect that even.

44. Cross-q. Between City Point and Drewry's Bluff, was there any Confederate force on the land; any armed force on the land or in the river?

A. No armed force I think at Drewry's Bluff. When I landed there I found an assistant surgeon of the rebel navy and some sick and wounded men, and he told me that he had been left behind in charge of these people.

45. Cross-q. Did he say how long he had been there?

A. It is possible that he did; but I don't recollect now.

409 46. Cross-q. Between Drewry's Bluff and Richmond there were no armed Confederates?

A. Not that I saw.

47. Cross q. There were no shot fired at the fleet?

A. No; not at all.

48. Cross q. From the time that Admiral Porter gave orders for the fleet to proceed towards Richmond there was not a Confederate gun fired at the fleet?

A. Not that I was aware of.

49. Cross q. You were in the van all the time; you were at the head?

A. Not for sometime afterwards; not for nearly twenty-four hours after he gave the orders to advance. It was in consequence of his order being disobeyed that I was placed in charge of it, and that happened quite twelve hours after that. I was not in a position to hear any firing.

50. Cross-q. Your first knowledge of Admiral Porter giving those orders was how many hours before you reached Richmond?

A. It was about perhaps thirty hours; in the neighborhood of thirty hours before I reached Richmond.

51. Cross-q. How do you make out the thirty hours?

410 A. It was early in the morning when Admiral Porter got his intelligence.

52. Cross-q. It was early in the morning when he gave those orders?

A. Yes, sir.

53. Cross q. And about 11 o'clock the next day you were in Richmond?

A. Yes, sir.

54. Cross-q. How was the order sent to Captain Rouckendorff?

A. By Army signals or telegraph.

55. Cross-q. No messenger was sent up?

A. No messenger.

56. Cross q. He told you he got the order?

A. Yes.

57. Cross-q. Did he tell you what time in the day he got the order?

A. He did not; but I know what time he got it.

58. Cross-q. What time?

A. He got it between 8 and 9 o'clock. I know it from this reason, that Captain Chandler and Captain Braine were ashore at the Army signal station, trying to find out what was going on. They knew something very important was going on, and they were there for the purpose of finding it out. 411

59. Cross q. Where was the Army signal station?

A. At Howlett's, and they were there when Admiral Porter's dispatch came to proceed at once, and the signal officer told them, "Now, you boys will have some fun," and they hurried off on board Captain Rouckendorff's vessel to receive their orders from him to advance, but he would not give them to them; and they begged him to let them go on.

60. Cross-q. This is what they must have told you?

A. This is what they told me.

61. Cross-q. But Captain Rouckendorff, as he told you, did not send out any boats to see whether the Confederates were out of the way until 3 o'clock in the afternoon?

A. No, and then he went himself.

62. Cross-q. That is from 9 o'clock to 3, about six hours he delayed?

A. Well, it was in that neighborhood. I won't say whether it was six or seven; it was about that time.

63. Cross-q. And nothing was done by the Navy during that time?

412 A. Nothing was done whatever.

64. Cross-q. Can you tell whether it was Sunday or Monday that the order of Admiral Porter was given?

A. No, I have no recollection. The days there were so much alike that I cannot tell.

65. Cross-q. No substantial difference between Sunday and Monday, I suppose?

A. No; not at that time.

66. Cross-q. When you were going down with President Lincoln in the barge did you see our gunboats; did you see the Maumee and Monticello?

A. They were scattered along the river.

67. Cross-q. Whereabouts were they?

A. Some were at Richmond. They were all the way from Richmond down to this station at Drewry's Bluff. Some had gotten aground and remained there, and they seemed to serve as sort of beacons for the others to avoid and go on.

68. Cross-q. Did you see any Army officer there except Weitzel?

A. His staff, that was all. I met no officer or soldier on my way up to the quarters.

413 69. Cross-q. You did not see any troops then?

A. No; no troops at all.

70. Cross-q. I suppose you did not look for any?

A. No; I did not look for any. I don't think there were any there. I am very well satisfied in my own mind they were on the outskirts of the city. They were not allowed to come in; that is my recollection of it; I don't know.

71. Cross-q. Well, you understood that Richmond was in possession of the United States troops?

A. Oh, yes.

Redirect examination by Mr. CORWINE:

Q. 37. When you say that nothing was done by the Navy from the time of the giving of the order to the time when Captain Rouckendorff moved, you mean to say that you know of nothing of your own personal knowledge, don't you?

A. I know of nothing of my own personal knowledge.

Recross examination by Judge SANGER:

72. Cross-q. You were speaking of the advance upon Richmond?

414 A. Nothing was done towards the advance upon Richmond.

73. Cross-q. Nothing had been done towards picking up torpedoes until you gave the order, about 8 o'clock at night, on the day when Admiral Porter gave the order?

A. Nothing was done until after 8 o'clock.

74. Cross-q. Early on a given day Admiral Porter, by signal, sent to Captain Rouckendorff, at Howlett's, to do something?

A. Yes.

75. Cross-q. In the afternoon, when the mail came down, you found that nothing had been done?

A. Nothing had been done.

76. Cross-q. Admiral Porter was displeased and sent you up with the directions you have already stated?

A. Yes, sir.

77. Cross-q. And when you got there and saw Captain Rouckendorff, you found nothing had been done?

A. I found that nothing had been done.

78. Cross-q. You immediately gave orders, and they went to work that night?

A. Yes, sir.

415 79. Cross-q. And that was after 8 o'clock in the evening?

A. That was after 8 o'clock in the evening.

K. R. BREESE,
Captain, U. S. Navy.

On the 2d day of November, A. D. 1876, Captain Kidder R. Breese appeared before me, in pursuance to the annexed correspondence, and, on being duly sworn, did depose and say as follows: I desire to amend the answer to the 9th direct interrogatory of the deposition heretofore given by me, by adding the following: That on reaching Richmond I saw a small gunboat on the west side of James River, on the ways; I pulled over to her and went on board and examined her thoroughly. Before I got on board, a man met me at the ladder and told me that it was a Confederate gunboat, the Beaufort. I went on board and made search of the vessel for arms and flags. I found two revolvers, which I took away with me. 416

K. R. BREESE,
Captain, U. S. Navy.

NOVEMBER 2, 1876.—Subscribed and sworn to before me.

HENRY L. HALLETT,
U. S. Commissioner, Mass. Dist.

417 Captain RALPH CHANDLER, having been duly sworn, was examined by Mr. Corwin, of counsel for captors, and deposed as follows:

Question 1. Please state your age, residence, and occupation.

Answer. Ralph Chandler; 46; captain in the United States Navy, stationed on board the United States receiving frigate Wabash, at Charlestown.

Q. 2. Where were you in the fore part of April, 1865, and what were you engaged in?

A. I was in the James River, just above Dutch Gap Canal, in command of the ironclad monitor Sangamon, in the North Atlantic squadron, under command of Rear-Admiral Porter then.

Q. 3. What knowledge have you of the movements of the North Atlantic squadron at that time on the James River, and more particularly of the advance of the squadron towards Richmond?

A. Well, we were near what is called the Crow's Nest, a signal 418 station of the Army, and on the 2d of April a telegraph came to the senior officer, who was then Capt. Wm. Ronckendorff, to organize a party to dredge the river and advance on Richmond. The telegraph came from City Point, from Admiral Porter, who was below. Captain Ronckendorff sent for me, and a party was organized on the 2d, and directed to go early on the morning of the 3d and clear the torpedoes from the river; but on the night of the 2d Captain Breese, the fleet captain, came up to the ironclad division, which I was in, about 10 or 11 o'clock. I know I had gone to bed. This was on the night of the 2d. He said that the admiral wanted the expedition to start at once—not to wait for daylight. We got up and organized, started, and were going through Dutch Gap Canal, instead of around the obstructions which were above us. We had thirty boats and three tugs. Captain Potter, Captain Ramsey, and myself. I think I was the senior officer. 419 We went along clearing out the river wherever we would find torpedoes until we got up, I think, to Deep Bottom (if I am not mistaken, it is just below Drewry's Bluff), where we removed some torpedoes; and just above there was the rebel ironclad Texas, in stream moored. I think she was moored to some piles driven there, but I am not entirely certain about that; I boarded her myself, and saw that she was not leaking—was sound—and detached one of the tugs under my command, and directed the officer to tow her to Norfolk. That was about 10 o'clock on the morning of the 3d.

Q. 4. When did you tow her down?

A. Just right at once. As soon as I saw her she was entirely sound, not leaking, no water in her, I detailed one of my three tugs to take her in tow, and ordered the officer of the tug to take her to the Norfolk navy-yard. She had two screws and her rudder shipped; that is
420 all of her machinery, except some pumping gear forward, and her
bed-plates for her engines. She had no engines in—only the shafts and screws. Soon after that the Maumee and, I think, the Chippewa (I have to rely on my memory for that), and a ferry-boat gunboat came up—I should think about half past ten on the forenoon of the 3d, as near as I can recollect, and they passed the obstructions where the rebels had sunk their ironclad fleet and kept on up towards Richmond just behind us—that is, just behind my division that were clearing torpedoes from the river. Very soon after that, about 11 o'clock, I should judge, the Malvern came in sight astern. We reached the second bridge just below Rocketts; and I told the next officer in command (I think the Maumee was the first ship that came in sight) that there was no more danger of torpedoes; they could push on ahead. On
421 reaching the bridge there was a steamer (I think her name was
the Allison, or Wm. Allison or Gen. Allison—Allison was one of the names), which had Admiral Farragut on board; and in coming down she had missed the bridge and got right across the draw. Instead of going through she had missed it, and got across the draw. The current was running very strong down and she was unable to get out of that position.

Q. 5. That was when?

A. That was about noon, or a little after, on the 3d.

Q. 6. Monday?

A. Monday. Admiral Farragut hailed and asked me if he could have one of my tugs to go down in, but I told him we would get his boat out as soon as possible, and we took our two tugs and put their prows right against the side-wheel steamer that was jammed in the draw-bridge, and steamed ahead with full steam and pushed her up right
422 against the current, and got her out of it, and she proceeded down
the river. Just then Admiral Porter, President Lincoln and his staff, came through the draw-bridge, and we all went over and landed in Richmond. Soon after landing, I think, the Maumee and the Malvern both came up. This all occurred on the same day that the troops went into Richmond, that is, on the 3d of April.

Q. 7. What vessel of the fleet of this North Atlantic squadron first started up the river after their signal was given?

A. Our torpedo and obstruction-clearing vessels.

Q. 8. Which one of the vessels?

A. I can't tell; I was ahead some five or six miles before any one dared to start, until they found out that the river was clear. As we got up towards Drewry's Bluff the vessels commenced coming up pretty rapidly—that is, one after the other. Some would get aground
423 and stick, and and others would get the channel. I believe when

they got to Richmond the Maumee was the only one that got there safe, she and the Malvern.

Q. 9. Do you remember who of the officers got to Richmond first?

A. I think Admiral Porter landed first, with Mr. Lincoln.

Q. 10. I am speaking of those who were in advance—who went in first?

A. I think he (Admiral Porter) landed first. I think I landed next, with Captain Potter and Captain Ramsey. I know he (Admiral Porter) told me, when we were going in, to stop and let him go ahead; he wanted to go in first.

Q. 11. You reached Richmond about what time?

A. It was about two or three o'clock in the afternoon, I should judge.

Q. 12. Of what day?

A. On the 3d; two o'clock, I think, at least.

Q. 13. What other captures were made by the fleet in its advance up the river at this time?

A. Well, there was a navy-yard on each side of the river, just
424 above the bridge at Rocketts, but who took possession of them
I don't know; but I know that a day or two afterwards Captain Parker, of the Maumee, told me that he had taken possession of one of the yards.

Q. 14. Were there any other vessels besides the Texas captured at this time?

A. I don't recollect of any other. There were one or two vessels on the ways, hauled up on the Richmond side, but whether they were captured or not I don't know; and I think there was some naval property in the Tredegar Iron Works. I don't know of my own knowledge of any other property that was captured, except the Texas.

Q. 15. Of course, when you say you don't know of anything else, you mean that you were not in a position to know?

A. No, sir; as soon as I landed I went up into the city.

Q. 16. What else was on board the Texas when you took possession of her, besides what you have mentioned?

425 A. I don't recollect anything else but what I have mentioned.

Q. 17. Was there any lumber on board of her at that time?

A. It strikes me there was some lumber in the hold, which looked as if it might be for roofing—heavy lumber, roofing for the iron casemating.

Q. 18. Have you ever had any experience in the construction of ships?

A. Yes, sir. I have seen ships constructed ever since I have been in the Navy, and paid some attention to it?

Q. 19. You know something of their construction?

A. I do.

Q. 20. What is your knowledge of a vessel of the character of the Texas, as she was at the time when you took her?

A. Well, my knowledge in reference to a vessel of that character is limited, for she was of a very peculiar build, intended for war purposes as an iron-clad; but the material and labor on her would be as heavy as on any other vessel of the same tonnage, and probably more so.

426 Q. 21. Did she appear to be designed for a fine vessel of war?

(Objected to by Judge Sauger on behalf of the United States.)

A. She was intended for one of those very strong river iron-clads, to be casemated with heavy iron, and to have her hull heavily plated; to be driven by two engines with independent acting crews, and constructed somewhat on the principle of the Merrimac, with an oblique roof, so that in case of shot striking it, it would glance; but she was not completed, and had no roof on and no machinery in. To build a vessel of that class costs more than to build for ordinary mercantile or war purposes.

Q. 22. For war purposes what would you think that vessel worth as she stood?

(Objected to by Judge Sauger on behalf of the United States.)

A. I should think she was worth $50,000 as she stood. I don't believe they could build her now-a-days for that.

427 Q. 23. One Z. C. Gifford testifies in this case as follows, in answer to questions put by Governor Wells, United States district attorney at Washington:

"Q. 9. Where were you on Sunday, April 2, 1865?

"A. I carried prisoners down to the Grave-yard Reach on Sunday; I returned, reaching the wharf, at Richmond, about 9 o'clock Sunday night.

"Q. 10. Was there any firing or engagement between the gunboats Federal and Confederate within your hearing on either Sunday or Saturday?

"A. No, sir.

"Q. 11. Do you know the fact of the blowing up of the Confederate ships; if so, when did it occur?

"A. I towed the three iron-clads—the Virginia, Richmond, and Fredericksburg—into the obstructions at Drury's Bluff Sunday night, about 8 o'clock, returning from the flag of truce trip. I then left them; knew nothing more of them until T*eu*sday; I was sent down the river to take Admiral Farragut, General Gordon, and two others to Aiken's 428 Landing; in passing down by Drury's Bluff I saw the wrecks of two iron-clads in the obstructions and opposite Cha*ff*in's Bluff where she had sunk; I left Richmond that day at 1 o'clock p. m. and arrived at Aiken's Landing at 5 p. m."

(Judge Sauger objected to reading from the testimony of a former witness; but on Mr. Corwine's stating that it was for the purpose of contradicting him, the objection was withdrawn.)

Q. 24. Do you remember seeing this man Gifford?

A. No, sir; I don't know him.

Q. 25. Are all the circumstances or details there true in every particular?

A. No, sir; they are not, so far as going directly from Richmond to the bend below, because he could not go. To the best of my knowledge and belief that is the boat that was jammed in the draw that I have testified to. Admiral Farragut was on board of her and asked me 429 for the use of a tug to take him down, as he could not get out of the draw-bridge; and this was about 11 o'clock, I should judge, or somewhere in that vicinity, on Monday, the 3d.

Q. 26. Now, he further says this: "What were you doing with your boat on Monday, the 3d of April, 1865?" "I was carrying Federal soldiers from the wharf at Rocketts directly across to Manchester, Chesterfield County. I don't know who commanded the brigade; but Captain Blood, who established himself there, the first quartermaster, introduced himself to me and asked me if I was willing to carry his brigade across the river, and I did so. I commenced about 10 o'clock on Monday, April 3, till sundown, commencing again at sunrise T*eu*sday morning, and finished about 12 o'clock on T*eu*sday. They were infantry and artillery, colored troops. I think I carried from 5,000 to 6,000

430 troops. I can't tell the number of pieces of artillery." What do
you know about that ?

A. I think he has lost a day. It was Monday he came down the river with Admiral Farragut on board.

Q. 27. What do you know of his carrying these troops across the river on board of his boat.

A. I lost sight entirely of him after getting him through the drawbridge and letting him go down below.

Q. 28. Were there that number of troops in Richmond at the time he speaks of ?

A. There was the whole of Weitzel's corps in Richmond at the time—the whole army of the James.

Q. 29. He says he carried across between 5,000 and 6,000 colored troops, between 10 o'clock on Monday, April 3d, and 12 o'clock on Tuesday.

A. I say, about 12 o'clock on the 3d he was in the draw-bridge, and
he was not carrying troops then. I pushed him out of the bridge,
431 and started him down stream, and lost sight of him from that
time. I have never seen him since.

Q. 30. What time on the 3d was it ?

A. Somewhere about noon, between 11 and 12 o'clock.

Q. 31. Could he between Monday, April 3d, at 10 o'clock a. m., and Tuesday noon have transported across the river between 5,000 and 6,000 troops on his boat ?

(Judge Sanger objected.)

A. I lost sight of the boat. I never saw her after she went down the river. I don't recollect meeting the boat at all. She went with Admiral Farragut down.

Q. 32. You say that the boat was jammed in the draw-bridge on Monday ?

A. On Monday, about noon.

Q. 33. And that you did not release her from that position until T*eu*sday ?

A. No, sir; I released her right away, on the 3d at noon. As soon as
we saw her in the bridge we went and got her out of it, and she
432 steamed down the river and I never saw her afterwards. I don't
know how far she went, or when she came back. We had to get
her out of the bridge at once of course; we could not get through ourselves; and then she started down, and that is the last I know of her. That was Monday noon, or a little before, April 3d.

Q. 34. How long had she been in that position, jammed in the bridge ?

A. I don't know of my own knowledge.

Q. 35. Now, will you answer my other question: Could he have transported that number of troops across the river at that point—that is, from Rocketts to Manchester, Chesterfield County—between Monday at 10 o'clock—or Monday when you released him, if you please—and T*eu*sday at 12 o'clock; in other words, could he have transported 5,000 or 6,000 troops in twenty-four hours on one boat ?

A. Oh, yes; it could have been done. How far down the river he
went I don't know. He may have left Admiral Farragut and the
433 others at City Point, which was not far below, and come back,
because as soon as I landed I went up to the State House and did
not get back again to the river until the next evening. As soon as I landed I left the river entirely.

Q. 36. What was the character of the obstructions in the James River that you cleared up in your advance ?

A. They were our own that were blown up by Prof. Mallafar, and they were vessels sunk with stone and rock. They were located just at the head of the reach—just above Dutch Gap Canal. I think it was called "Grave-yard Reach." The others were obstructions caused by the sinking of iron-clads.

Q. 37. What iron-clads, and by whom sunk?

A. I don't know who they were sunk by, and I don't know they were iron clads. I know it was iron that was down there—very hard. It carried away the bottoms of everything that struck on it, and we
434 sounded over it. Those obstructions were just below Drewry's Bluff—about five or six miles, I think. I have forgotten the name of the point. Those are the only two that I know of.

Q. 38. Were the obstructions of the Confederates made up entirely of sunken boats?

A. Well, they had, further up, rows of piles driven right across the river, except a place between for the vessels to pass down. From the Rocketts down to Drewry's Bluff there were, I should judge, half a dozen rows of obstructions formed in that way—just by piles driven across, with an opening in the channel far enough for the largest vessels to get through.

Q. 39. What amount of firing was there between the vessels of the Confederates and the United States vessels, or between the shore batteries and the United States vessels, the forepart of April, 1865?

A. Well, the first of April or the last of March we had the
435 whole fleet up to engage Howlett's battery, which bore on Dutch Gap Canal. I think it was either by the first day of April or the last day of March—one of those two—and the firing lasted about three hours, and most of all the fleet took part in it. Then the boats that went up the river to clear the obstructions were all armed, and there was some musketry firing from the boats in return to skirmishes from the shore. I am very certain that the Malvern used her battery going up the river.

Q. 40. Under this order to move?

A. Yes, sir; and there was a ferry-boat gunboat there that I was on board of for a little while. I have forgotten her name. I took her over the obstructions. I think she used her battery, too. She was a ferry-boat converted into a gunboat, with a heavy battery at each end. That is all I recollect. There was more or less saluting after we reached Richmond, but on the way up I do not reccollect of any other.

436 Q. 41. Were the' firing from the shore batteries on the Confederate side during those few days?

A. The day I speak of, when the fleet came up, the' returned our fire.

Q. 42. I mean as the fleet moved?

A. Yes, sir; I am speaking now of the time when the fleet came up to engage Howlett's battery. That is the time they returned the fire. I should claim a little latitude on account of relying entirely upon my memory, for this was some years ago, and I have not looked at a single paper or document to refresh myself at all.

Q. 43. Have you anything that would refresh your memory?

A. I have got all my correspondence at home, in Poughkeepsie—all my public documents and everything. I will produce them as soon as I can get at them.

Q. 44. Did the army render any assistance to your fleet in its advance up the river at this time, or take any part in that movement?

437 A. No, sir; we were entirely unassisted by the army.

Q. 45. Was the movement up the river made by reason of any order from any military commander at that time?

A. By order of Admiral Porter.

Q. 46. I mean was your fleet induced to advance up the river by reason of any order from the general commanding the army?

A. No, sir; the only order came from Admiral Porter.

Q. 47. About how long were you engaged in removing those obstructions? How long was it before you reached Richmond from the time you commenced after receiving this order?

A. Well, we commenced about midnight of the 2d of April, and reached Richmond about 3 or 4 o'clock on the afternoon of the 3d. That is as near as I can recollect.

Q. 48. About how long after this was it that the fleet were at or near Richmond? About how long after that had they come up the river?

438 A. Well, one I think was there on the 3d, the Maumee and the Malvern was there on the 3d. I don't know how many others got up above the bridge; but they came straggling along as they could find the channel and the draft of water would permit.

Q. 49. Taking into consideration the shore batteries, rafts and so on, the vessels of war, tugs, &c., used by the Confederates, was their force superior or inferior to ours at this time, the 3d of April? Understand the question; taking into consideration all the elements used by the Confederates in their defence—batteries, rafts, tugs, vessels, and everything else connected with it, whether in use or not—taking into consideration all the appliances used by the Confederates in their obstruction of your passage up the river?

A. Well, if they had used all the appliances the' had there capable of being used, they could have kept out all the fleets of the world.

439 Q. 50. That is not the question. You don't understand. I want to know whether or not the force of the enemy, as made up of these various adjuncts, was superior or inferior to that of the United States fleet; in point of numbers, I mean, not physical force.

A. I should have to say I don't know.

Q. 51. What was done with the Texas after you took her to Norfolk?

A. I never saw her after I gave the order for her to be towed down. I didn't take her to Norfolk; I simply ordered he' to be towed there and she went down the river in tow of the tug, and I kept on going up.

Q. 52. Was there anything to prevent the escape of the Confederate fleet except the North Atlantic squadron in the James River at that time?

A. Nothing except the obstructions and the North Atlantic squadron. The obstructions were put down by our fleet partly.

440 Q. 53. After the removal of those obstructions was there anything that would have prevented the escape of the Confederate fleet except the North Atlantic squadron?

A. No, sir.

Q. 54. Do you remember a vessel by the name of Beaufort that was taken at this time?

A. I don't recollect her; no, sir.

Q. 55. Do you know anything about the value of machinery?

A. Yes, sir.

Q. 56. Did you see any of the machinery taken at this time, either from the navy-yards or from vessels, and sent forward to Norfolk as prize of war?

A. No, sir. I was only in Richmond from the afternoon of the 3d until the evening of the 4th, and then I went directly down and rejoined my own ship, the Sangamon. I had no opportunity of seeing any of that captured property up there.

Q. 57. Was this Texas sent back by you to Norfolk as a prize of war?

A. Yes, sir.

441 Q. 58. Sent with the lumber on board?

A. Yes, sir; as she stood; just as we unmoored her.

Q. 59. Do you remember the blowing up of the Confederate ships by the Confederates themselves?

A. I don't remember of my own knowledge. I simply heard explosions about the time, and it was said they were being blown up; but from my own knowledge I don't know anything about what time they were blown up.

Q. 60. About what time was it you heard the explosions of those vessels?

A. It was early Sunday evening. It must have been 7 or 8 o'clock—after dark.

Q. 61. Not long after that the order was given to move?

A. Breese came up and gave me the order in person.

Q. 62. You were then on board your vessel?

A. I was then on board. I had a party organized, directed by Captain Rouckendorff, to start next morning. Breese came up and said the admiral wanted us to go at once.

442 Q. 63. Do you know where Captain Gorringe was on the Monticello?

A. No, sir. She wasn't in our vicinity. There were seven iron-clads up just above Dutch Gap Canal, at Howlett's, and the wooden vessels were some four or five miles below.

Q. 64. Does the tide ebb and flow at Richmond?

A. Oh, yes, sir.

Q. 65. Navigable for ships of twenty tons burden and upwards?

A. Large steamers go up to Richmond. Those New York steamers drawing ten or eleven feet of wa'r go up to the Rocketts. The falls above they cannot get over. Heavy ships load at City Point, twenty-five miles below.

Q. 66. I wish you would describe that bridge where the Allison was wedged in. State whether or not it was a strong and large bridge.

A. It is a strong and large bridge, built for army purposes, to transport artillery, munitions of war, and provisions across—built
on piles by the Confederates during the war. There was never a
443 bridge across the river before the war, I think, on the way up to
Richmond.

Q. 67. State where this bridge was.

A. The bridge was, I should judge, a mile below the Rocketts. It was a good strong bridge. I know that our artillery, cavalry, and other arms of the service could cross it without any trouble. They simply destroyed the draw part of it.

Q. 68. Could 5 or 6,000 troops have been transported quicker and better across that bridge than by boat?

A. Yes, sir; they could have been transported in one-quarter of the time.

Cross-examined by Judge SAUGER, on behalf of the United States:

1. Cross-q. The 1st day of April, 1865, was Saturday?

A. Yes, sir.

2. Cross-q. The second Sunday, of course; the third Monday and the fourth Tuesday?

A. Yes, sir.

3. Cross-q. You say that, not having anything here to fix dates, you are uncertain as to the dates?

444 A. Yes, sir; a little. My memory in reference to the Sunday is pretty distinct, because Captain Rouckendorff, who was commanding there, being quite a religious man, objected to having any work done on that day, when I organized this boat expedition, but it was a matter of necessity, and he consented to it.

4. Cross-q. If, in point of fact, President Lincoln did not reach Richmond until Tuesday, the 4th, then you are mistaken?

A. Yes, sir; then I am mistaken.

5. Cross-q. Now, as a matter of fact, don't you know that it was the 4th?

A. My impression is it was the 3d, on Monday.

6. Cross-q. You saw President Lincoln on a given day?

A. Yes, sir.

7. Cross-q. And it was the day before that that orders were received from Admiral Porter for the fleet to advance?

A. The evening before.

8. Cross-q. Well, the morning before?

A. Breese gave us the order on the evening of the 2d.

9. Cross-q. Captain Breese came up the river and gave the order in the evening?

445 A. We had a telegraphic order in the morning coming through the signal station to go ahead, push ahead and clear the obstructions; organize a party and push on to Richmond.

10. Cross-q. Nothing was done under that order before Captain Breese came?

A. Yes, sir. The boat parties were all organized with their grapplings and arrangements for clearing the obstructions, but no movement took place until Breese came up in person in the evening, about 10 or 11 o'clock, I should think.

11. Cross-q. When he came, he renewed the order?

A. He asked me why we hadn't moved.

12. Cross-q. I don't care as to the details. He renewed the order, didn't he?

A. Yes, he renewed the order.

13. Cross-q. Captain Rouckendorff was the commander, the senior officer there, and he then issued orders for you to go ahead?

A. Yes, sir; we started about midnight; got the party together and started away as soon as possible after the order was given.

446 14. Cross-q. When did you last see Captain Breese at that time?

A. Breese went along up with us, I should think some distance.

15. Cross q. He took his gig and went up ahead?

A. A tug was towing his gig and he came on board my tug and we went up together.

16. Cross-q. Up as far as Drewry's?

A. I think it was; I am not certain how far it was.

17. Cross-q. And then he went ahead in his gig to Richmond?

A. Whether he went ahead or behind I don't know; I lost sight of him.

18. Cross-q. The day that you saw President Lincoln in Richmond you went up from Drewry's or from Howlett's to Richmond?

A. Yes, sir; I landed about the same time that he did in Richmond.

19. Cross-q. Where did you leave the Sangamon?

A. I left her down at Dutch Gap.

20. Cross-q. How did you go up there?

A. I went with this expedition; I had three tugs and thirty boats under my command, and I went in one of the tugs.

447 21. Cross-q. Were those tugs armed?

A. Only with rifles; I don't think they had any heavy ordnance on board; only muskets.

22. Cross-q. And the boats' crews were armed with small arms?

A. With carbines; yes, sir.

23. Cross-q. As an ordinary attacking party would be armed?

A. Yes, sir.

24. Cross-q. You then went up without any armed vessels?

A. That is all; only three tugs and thirty boats.

25. Cross-q. Were any shots from artillery fired upon you from the shore?

A. No, sir.

26. Cross-q. Were there any signs of the enemy in any battery on the shore?

A. I could only judge from the exchange of shots with the advance boats. Once in a while I could see muskets firing from some of the advance boats towards the shore.

27. Cross-q. Simply musket firing?

A. Simply musket firing.

448 28. Cross-q. Whether those pieces were loaded with ball or otherwise, you don't know?

A. I think they could not load them in any other way. They all had fixed ammunition, you know.

29. Cross-q. When you got to Richmond you walked, I suppose, from the landing to—where?

A. No, sir; I got on a horse and rode alongside of the ambulance that Mr. Lincoln went up in. There was a six-horse ambulance there at Rocketts, belonging to one of the artillery regiments, and some spare horses. I got on a horse and went right up.

30. Cross-q. The President rode up in an ambulance the whole distance?

A. The whole distance up to the square.

31. Cross-q. Then where did he go?

A. Then he went over to Jeff. Davis' house, which is only a short distance from the square where Gen. Weitzel had fixed his headquarters. He walked over from the square to the head quarters, his son "Tad" with him, and Admiral Porter. I don't know whether Breese was

449 there or not, but there were several army officers.

32. Cross-q. Were there any other officers?

A. Yes, sir; there were several Army officers. They crossed over to Jeff. Davis' house, and there the conference was quite a lengthy one.

33. Cross-q. How long did the President remain in Richmond?

A. Three or four hours, I should think.

34. Cross-q. Whether or not the fire had been put out at Richmond?

A. No, sir; the fire had not been put out. The troops were stationed around to prevent people from passing through the different streets where the walls might fall.

35. Cross-q. Was the fire burning?

A. The*y* fire was burning.

36. Cross-q. Anything more than smouldering?

A. Some of the rafters of those heavy stone buildings were flaming, lower down, of course. The roofs had fallen down, but in some places there was dense smoke and large flames. The troops were stationed in those streets to prevent people from passing.

37. Cross q. You saw troops there?

450 A. Oh, yes, any quantity of them.

38. Cross-q. The fire was entirely under control?

A. Yes, sir; the bridge was burning too, I remember.

39. Cross-q. The fire had been substantially put out?

A. Our men had been working all day at it—our soldiers. It wasn't spreading, it was smouldering; but in places you could see quite large flames and a dense volume of smoke.

40. Cross-q. How many acres had been burned over there, should you say?

A. There must have been three or four acres of ground. Well, that is a good deal in the center of a city. It covered three or four acres. It took out most of the large houses in the business portion of the city, and those troops were stationed there some time afterwards.

41. Cross-q. You say there was nothing but your fleet and the obstructions that prevented the escape of the rebel fleet?

A. Yes, sir.

451 42. Cross-q. Were not the rebel vessels all destroyed at that time?

A. Yes, sir; to the best of my belief they were all destroyed.

43. Cross-q. Then there was no rebel fleet to escape at that time?

A. That was what I wanted to say; I don't know of any rebel fleet. If there was any there to escape I didn't find it going up.

44. Cross q. Did you see any armed vessel formerly of the reb's when you went up?

A. No, sir; not to my recollection.

45. Cross-q. The Allison was a ferry-boat?

A. She was a small side-wheel steamer. We have got a good many of her class running around in the harbor of Boston.

46. Cross q. Something like the Massasoit?

A. Something about her size; but not nearly as nice a boat.

47. Cross-q. Something like those vessels that go to Nahant or Nantasket?

A. Yes, sir.

48. Cross q. You say the order for the advance was given by Admiral Porter?

A. Yes, sir.

452 49. Cross-q. You don't know whether he had received any orders from any land officer or not?

A. No, sir.

50. Cross q. You simply know you got your orders through the channel from which you should receive them.

A. That is all, sir.

51. Cross-q. You saw no force of the enemy as you were going up the river?

A. No, sir.

52. Cross q. Either in going up or down, did you see the Monticello?

A. I did not.

53. Cross-q. If the Monticello had been in the river above Drewry's shouldn't you have seen her, either in going up or down?

A. I think I should; but I had about as much as I could attend to without looking for other vessels, you know.

54. Cross-q. You left the Sangamon at Howlett's.

A. Yes, sir.

55. Cross-q. Were all the iron clads left at Howlett's?

A. All of them; none of the iron-clads move' up at all.

56. Cross-q. The only force, you have already said, was the men 453 in the boats carried up by the tugs. Were you not towed by the tugs?

A. No, sir; each boat was manned and pulled up the river with the grapplings.

57. Cross-q. Didn't the tugs tow the boats?

A. No, sir; the advance was made by the small boats, each one lapping the other in this way (illustrating), so that they wouldn't leave any space; each one had two small grapplings out. The line of boats extended right across the river, and then in the rear of the boats came the three tugs. Whenever the boats would find any torpedoes, they would go up with a tug and tow them out of the channel, get them one side and then mark the position with little red flags or poles. Then right after the tugs came what vessels could get up.

58. Cross-q. Now, what vessels were there that came up?

A. The ferry-boat that I speak of, the name of which I cannot 454 recollect, was one. The Maumee was *was* another, and the Malvern was close by.

59. Cross-q. Where was the Sassacus?

A. She was down below with the wooden gunboats.

60. Cross-q. Do you know whether she went up the river or not?

A. No, sir; she came up that night of the bombardment to Howlett's battery with the rest of the wooden vessels.

61. Cross-q. That was either Friday night or Saturday night?

A. Yes, sir.

R. CHANDLER,
Captain, U. S. A.

AUTHENTICATION OF RECORD.

Clerk's certificate.

CLERK'S OFFICE,
Supreme Court of the District of Columbia:

I, R. J. Meigs, clerk of the said court, do hereby certify that the writings annexed to this certificate are true copies of originals on file and of record in said office, and that said originals, together, constitute the record of the proceedings of said court in this cause, and are paged from 1 to 454 inclusive.

Witness my hand and the seal of said court this 7th day of February, 1878.

R. J. MEIGS, *Clerk,*
By M. A. CLANCY,
Assistant Clerk.

(Indorsement on cover:) No. 694. The U. States, on the behalf of David D. Porter & others, the officers and men of the North Atlantic Squadron, appellants, vs. The Steam Vessels of War Seabird, Texas, Beaufort, et al. Dist. of Columbia sup. court. Filed 10th November, 1879.

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JAMES H. McKENNEY, Clerk.

Supreme Court of the United States.

UNITED STATES IN BEHALF OF THE OFFICERS AND MEN OF THE NORTH ATLANTIC SQUADRON

v.

THE IRON-CLAD RAM TEXAS AND THE BEAUFORT.

In Admiralty—*No.* 269
Supreme Court—*No.* 141.

Brief for Captors.

JEROME F. MANNING, *Proctor*.

1. The Texas and Beaufort were captured in the James river, as alleged in the libel, April 3, 1865, ten days prior to the surrender of General Lee. Hence there is no question about the *fact* of capture as alleged. The only question is, was the capture *lawful maritime prize?*

2. The counsel for the United States claims that they are not "lawful prize," but, in the legal sense, are included in the class of abandoned and captured property.

Chapter 120, sections 1 and 2, (12 Statutes at Large,) says, (sec. 1.,) "That such (*i. e.*, abandoned or captured) property shall *not* include any kind or description which has been used, or was intended to be used, for waging or carrying on war against the United States, such as arms, ordnance, ships, steamboats, or other water craft, and the furniture, forage, military supplies or munitions of war."

Sec. 7 says, "That *none* of the provisions of this act shall apply to any lawful maritime prize by the naval forces of the United States."

This law was passed March 12, 1863. It is obvious that this property in question cannot be, in law, abandoned or captured property; because such property is expressly excluded by the very act making provision for the collection and disposition of it by the Secretary of the Treasury. Congress meant to give him custody and control of merchandise only, (such as cotton, rice, etc.,) and not munitions of war. The law expressly left those where former acts had provided they should go.

Consequently, this defense or objection of the opposing counsel is out of the case.

3. The only question remaining is, were these vessels of war "lawful maritime prize?"

To answer this there is only to be considered, *who* captured, and *where*.

First, was the capture on the "*inland waters*" of the United States, in the sense used in the law? and second, *who* captured—did the navy and army?

"Inland"—*i. e.*, "within the land"—Webster's Dictionary; water not connected with the sea by an outlet.

This capture took place on navigable waters—an arm of the sea—which plainly does not come within the meaning laid down in the case (cited by the opposing counsel) in 10 Wallace, 577, because that capture took place some forty miles from the *head* of navigation by means of picket launches.

This took place by regular vessels of war in a large and navigable river.

Mr. Justice Strong, in delivering the opinion of the court, on page 589, says: "It was therefore an inland capture, though made upon a river which *empties* into an arm of the sea, and it was at a point where ordinary vessels of war could not safely go. There was nothing in the situation of the property that required peculiarly a naval force or *maritime* service to effect its capture."

This capture in the James was not a river emptying into an arm of the sea, but *an arm of the sea itself.* The capture could only have been made by armed vessels of war removing the obstacles and opening the river channel. The situation and necessities of the two cases are entirely different, and the cited case is in no respect a parallel for the case at bar. The cited case shows that the captured property was an unarmed merchant vessel for carrying freight, while in the other it consisted of vessels prepared, and intended for waging war against the United States.

Mrs. Alexander's cotton case (cited by opposing counsel) is not in point, because that was entirely a *land* capture of "peace" property, and not "war" property. But in the case of the "Cotton Plant," 10 Wallace, 581, (middle of page), the court uses language plainly decisive of this case, and needs no argument, viz.: "But, in speaking of 'inland waters,' Congress must have intended waters within land, indeed, but where a naval force can go, and where naval captures could be made." Obviously this is just the state of facts contemplated by the court in this opinion, and brings the case at bar within the rule.

Chapter 225, 13 Statutes at Large, was passed in reference to chapter 120, 12 Statutes at Large, 820, and supplemental thereto and amendatory thereof. Section 1 makes reference to said chapter 120; chapter 120 omitted any provisions as to abandoned lands and tenements, and related to personal or movable property *only.* Chapter 225 made provisions covering them, *i. e.*, lands and tenements, and some slight changes in the *mode of procedure* under chapter 120; but it made no change in reference *to kinds* of property, leaving that as in the said act of 1863, with its prohibitory provision that the specified kinds of property, *i. e.*, "*war property*," was *not* abandoned or *captured* in the *legal* sense.

The *turning point* in both acts is, "war property" was not to be controlled by the Treasury Department; nor "peace" or "civil" property (so to speak) should not be controlled by the Navy Department, and the prize courts as prize property.

The court, in the "Cotton Plant" case, gave an opinion on the capture of "peace," not "war property," and when the opinion uses the phrase "all property," it must, and can only mean "peace" property; because only *such* property was in adjudication, and the acts of Congress it was interpreting had been made with these distinctions and purposes as the *basis* of the said acts. Congress meant to simply provide that "peace property" on "inland waters" should not be naval maritime prize.

Had the "Cotton Plant" and its cargo not been *prohibited*, by sections 1 and 7 of chapter 820, Acts 1863, from being lawful maritime prize—had the steamer and its cargo been a "steamboat used or intended to be used in carrying on war against the United States," (said section 1,) then the decision of the court would necessarily have been the reverse. Although made on "inland waters" by picket launches, yet being "war property," the cases of "The Charlotte," 5 Robinson, Admr., and "The Donna Barbara," 2 Haggard, 373, would have been authorities precisely in point.

Lord Stowell therein said:

> "The court would certainly be disposed to extend, as far as it could with propriety, to ships of war the benefit of captures made by their *boats* acting distincly in that capacity. There *must* be situations in which the captures could not otherwise be made, and many considerations of convenience require that they should be allowed to take in whatever manner their judgment may deem expedient, according to the circumstances of the case, either by their whole force or by a part detached on that particular service. The court would therefore not be disposed to narrow the legal effect of the operation of their boat's crew."

The language is plain and positive—so broad and comprehensive as to bring the case of the "Cotton Plant" and cargo within its rule if they had been "*war property*." The cases cited further on, in this brief, show that the cotton captured on *shore*, near the boat, would also have been included. But the whole was declared not prize, because it was "peace property," and by virtue of the abandoned and captured property acts had been placed under the control of the Treasury Department. This was the sole consideration, and the construction of the phrase "inland waters" was merely collateral and incidental to the main one of whether by the Law of 1863 the property was prize for the navy or "plunder" for the Treasury? In "The Charlotte," another case, 1 Dodson Rep., 220, the court goes still further, and says: "Suppose the vessel is in *dock*, and undergoing repairs, the circumstance would not suspend the right of the officer in command of her to act by himself and men in *boats*. The seizure may be legally effected by means of boats, or, indeed, *without* them, *by a mere summons to the parties*."

Thus, is the first query of *where* the captures were made answered conclusively. The second query of *who* made the captures remains. The captors say it was made by the officers and crews of the vessels of the navy; the defense answers that it was a capture made by the navy *and the army*. This the captors deny. The solution depends on the facts. What are these? The defense concedes that the army was not present, did not take an active part, was not in the vicinity, was not within "signal distance" of the captors when the capture was made.

Such being the *facts*, no *pretense* of *joint* capture can be made. It is assumed, pretentious, and without a scintilla of evidence to support it. No *joint* captures are possible in contemplation of prize law, unless the joint captor actually was present, and assisted, or was within "signal distance," having the ability to render effective aid to the captors, and the intention and purpose so to do. This is a rule as ancient as prize law itself and of unvarying application in all claims of "joint capture."

See further on, Lord Stowell on the doctrine of "*intent*" in prize.

Another case relied on by the defense in opposition to the claim is that of The Siren (13 Wallace, 389). Counsel for the United States says "This is a case in *nearly* all respects parallel to this one;" thus admitting that it is not a *parallel* case in the legal sense.

The differences are, that in the cited case, the army and navy were operating with the same general design, viz.: the capture of the City of Charleston, S. C. In this case, the designs of the army and navy were different. The army was seeking the capture of Richmond, Va. The navy seeking to remove the obstructions in the James river, which were a long way from Richmond, also to prevent the escape of the rebel fleet. The capture of Richmond by the army by no means insured the opening of the James river and the capture of the rebel fleet. The army might have entered Richmond, and the obstructions in the James remained, or the rebel fleet escaped as part of the Confederate defenses.

In the Charleston case, the army and navy were co-operating on a common plan; from instructions from a common source, within sight and co-operating distance of each other. In this case, the army and navy were many miles apart, not co-operating on a common plan, by joint instructions from a common superior, but on different plans, from different commanders, and distinct objects in view.

The "Siren" cannot be regarded in a legal sense as a precedent for this case. The "Siren" was a blockade runner, was "peace property," and not "war property;" was partially destroyed and in process of destruction by fire, and sinking when captured, and was salvage, not prize. There was no enemy near, or in sight. Charleston was evacuated; its former defenders were making no preparation for further opposition to the Federal forces anywhere. The Federal flag was flying over Charleston when the capture was made, which took place *close by the city;* whereas the Texas was taken about thirty miles away from Richmond, and *near where the Confederate forces were preparing further opposition to the Union forces.*

The counsel for the defense uses the phrase "*joint capture*" as though it was pertinent to this case. But it is not, because "joint capture" is not predicated on captures where the army, troops or soldiery were the "joint captors." "Joint capture" is legally predicated only in those cases where the capturing forces were EACH *maritime!* Not simply and *only naval* forces—that is, the king's ships, or ships belonging to the Government of the United States—but privateers, the armed commissioned vessels of citizens, sailing and capturing by authority of letters of marque and reprisal. Prize, in a word, is not predicated of *land* forces. Court of Admiralty of Mississippi Territory, 1815; United States *v.* The Active, 2 Car. Law Repos., 192; S. C., Am. Law Journ., 543; 3 Wheel., Cr. Cases, 264. In these cases the courts say:

> "No private right of property arises when property of the enemy is seized by troops in the LAND forces, even though the property captured is an enemy's vessel which has approached near enough to the shore to be taken by troops there stationed. It is *only* in favor of crews of naval vessels or privateersmen that the right of prize exists."

These American cases follow the English. In the Stella del Norte, (5 Robinson, Adm. Rep., 350,) The British Guiana, (2 Dodd., 151,) occurs the following, to wit:

> "Where a capture is made by a *conjoint* expedition, composed of a British naval force and an army of allies, the case is not within the provisions of the British prize act, and therefore the captors must altogether depend on the Government bounty for reward for *such* a capture."

This case shows that there was a "conjoint expedition" fitted for the purpose of capture; that there was a common "*intent*" to capture; but even here, where the clear doctrine of "*intent*" entered, the court held that no lawful prize accrued to the troops or *land* forces. The reason is shown in 13 Wallace, 392, 394, as follows, to wit:

> "Prize was wholly the creature of the crown. No one could have any interest but what he took as the gift of the king. The United States have succeeded to the rights of the crown. No one can have any right or interest in any prize except by their grant or permission. All captures made without their express authority inure *ipso facto* to their benefit."

"*Whenever a claim is set up its sanction by an Act of Congress must be shown. If no such act can be produced the alleged right does not exist. The United States take captured property not as droits, but strictly and solely jure reipublicæ.*" (1 Gallison, 555, 558; Dos Hennanos, 10 Wheaton, 310.)

What statute of the United States has been cited or can be produced authorizing *soldiers* to be captors of lawful maritime prize for the benefit of the Government?

The custom of the navy in such cases should be regarded, and have weight in arriving at the decision.

In discussing the case of *The Vestal*, Lord Stowell says:

> "The court would be extremely unwilling to break in on any settled and received notions of the navy or to disturb a practice generally prevailing among themselves."
> See Upton's Law of Prize, p. 131.

This discussion of this principle and custom of the navy is in reference to "joint capture." We are to follow the precedents of the English law, except where that law has been changed by act of Congress, or the decisions of our own courts. We are aware of no act or decision in this country, or in England, annulling or contradicting this principle and precedent.

The navy is an institution—a part of the Government, a branch of the public service coeval with the existence of the Government and coextensive with its jurisdiction and power. Its customs or usages are not to be disregarded where they do not come in conflict with the law. They are to yield to nothing less when in harmony with that which is for the public good.

That which contributes to the efficiency of the naval service in the line of prize is to be encouraged by the courts. This is the only safe rule and course. Anything else tends to weaken, impair and disorganize an arm of the service indispensable in time of war and immeasurable in value in time of peace.

Again, says Lord Stowell, in the same case, p. 133:

> "The great intent of prize is to stimulate the present contest and to encourage men to encounter present fatigue and present danger, an effect which would be infinitely weakened if it were known that there were those not present and not concerned in the danger who would entitle themselves to share.",

This is said in reference to "joint capture" by vessels of the same fleet not "in sight." How much stronger its application in the present case, when, if a different rule is to prevail, *these* captors, instead of getting a *part*, get *nothing*, the court permitting the Government to get *all.* Is not this plainly thwarting the whole "*intent of prize?*" The courts of the Government would remove the very wise and proper incentive and stimulus to daring, danger and death which the same Government has offered in its acts. Plainly, the legislative branch of the Government never intended to confer any such power on the judicial branch, and we know it will not usurp it.

Again, says this eminent judge:

> "Is it every *remote* contribution, given with intention or without intention, that is sufficient? I apprehend that is not to be maintained. If persons under such claims could share there would be no end to dispute; no captor would know what he was about." (P. 132.)

Lord Stowell, in The Amitie, (6 Robinson's Admiralty Reports, 261, and Upton, p. 136,) says:

> "There must be the *animus capiendi*, demonstrated by some overt act, by some variation of conduct, which would not have taken place but with reference to that particular object."

Now, to entitle, under this rule, the United States to these proceeds, and to deprive the captors thereof, it must be shown by the defense that they had the *animus capiendi*—the intention to capture these vessels in question by their operations against Richmond. It is obvious they neither had, nor could have had any such intention. The intention of the army was one thing, that of the navy quite another.

No rule is better settled than that we are to follow the decisions of the English Prize Courts in cases where they do not conflict with the acts of Congress, or American courts. (Kent, on p. 357, star page, in approval of Sir William Scott; 13 Wall., 392, 393; 9 Cranch, 198; 1 Gallison, 555, 558; 10 Wheaton, 310.) "The prize jurisdiction also tends to captures in foreign ports and harbors, and to captures made *on land* by naval forces, and upon *surrenders* to naval forces, either *solely* or by *joint operation with land forces*." (1 Robinson's Admiralty Rep., 271.)

Again, Kent says: "It extends to captures made in rivers, ports and harbors of *the captor's own country*. But as to plunder or booty in a *mere* continental *land war*, without the presence or intervention of any ships or their crews, Lord Mansfield admitted, in Lindo *v*. Rodney, (Doug., 613, note,) there was no case, or authority, or principle to enable him to bring it within the cognizance of a prize court.

Congress, in the abandoned or captured property acts, had in mind and purpose the distinction, plain and palpable, between lawful maritime prize and "plunder or booty." Cotton, rice and other kinds of personal "peace property" were mere booty or plunder, to be put under the responsible control of the Treasury Department, and not let it become mere "*loot*" in the hands of a lawless and irresponsible *soldiery*.

In the case of the Emulous (1 Gallison, 563), the court says: "The prize court takes cognizance of all captures in creeks, harbors and *rivers;* and also of all captures made on land, where the same had been made by a naval force, or by co-operation with a naval force; and this exercise of jurisdiction was settled by the most solemn adjudications." From this array of authorities it appears that, whether the army did not or did co-operate with the vessels of the navy in capturing the Texas and Beaufort, it can make no difference in prize law! (See 4 Rob. Adm. Rep., 388; Abbott's Dig., 4, p. 3, sec. 6; Gallison, 325; Doug., 649, note; 15 Law Rep., N. S., 451; U. S. *v*. 269½ Bales Cotton, 1 Gall., 563.)

To recapitulate, the case stands thus: Not captured or abandoned property; not made on inland waters; was not joint capture of navy and army, but a capture solely by the navy. Whether the land forces aided or not, under the constant rules as cited, the captors are entitled to decrees of condemnation and distribution as claimed. Hence, lawful maritime prize in the legal sense; and nothing remains but to fix the valuation, of which presentment will be made in its order.

Respectfully submitted,

JEROME F. MANNING,
Proctor for Captors.

16-607

OFFICE SUPREME COURT U.S.
FILED
JAN 3 1883
JAMES H. McKENNEY, Clerk.

In the Supreme Court of the United States.

October Term, 1882.

The United States on behalf of David D. Porter, &c.,
vs.
The Steam Vessels of War, &c., &c.
No. 141.

BRIEF FOR THE UNITED STATES.

7050

In the Supreme Court of the United States.

OCTOBER TERM, 1882.

THE UNITED STATES ON BEHALF OF David D. Porter, &c.,
vs.
THE STEAM VESSELS OF WAR, &C., &C.
No. 141.

BRIEF FOR THE UNITED STATES.

This is a proceeding in prize on behalf of the officers, &c., of the North Atlantic Squadron, and it grows out of the naval operations in James River in April, 1865.

The libel (filed June 24, 1874) states, substantially, that, on the 1st of April, 1865, James River was obstructed by the rebels by means of—amongst other things—many steam vessels of war, specifying by name *eleven;* of these *nine* were destroyed immediately thereafter by the rebels at the close of a successful attack by the North Atlantic Squadron and in order to prevent their being taken: [Nothing is alleged as to the fate of the other two.] Such rebel force was *superior* to that by which it was overcome: By virtue of the act of June 30, 1864, the libellants are entitled to a bounty of $200 per man for every man belonging to the vessel so destroyed;

and thereupon a monition is prayed for, and an allowance of such bounty and also "that process may issue especially to the Secretary of the Navy."

The libel was signed by the United States attorney for the District of Columbia and also by proctors for the libellants (p. 3).

It does not appear that process ever issued. A number of depositions were taken by proctors of the libellants and by an attorney for the United States, appearing adversely to each other; and at the hearing an attorney for the United States made the motion upon which the proceedings were dismissed.

Before stating the facts as understood by the undersigned, it is proper to say that upon Sunday, the 2d day of April, 1865, the situation upon James River was as follows:

The most advanced vessels of the North Atlantic Squadron were in Trent's Reach, just above the lower end of Dutch Gap Canal (folio 89), that canal being, by the river, 16 miles from Richmond (folio 251). The station of these vessels was also just below certain obstructions, originally placed in the river by the rebels, and afterwards maintained there by the United States forces (folio 89). Two miles above these obstructions was Howlett's Confederate battery (folio 258). Some 4 miles above Dutch Gap Canal was Graveyard Landing at the lower end of Graveyard Reach, where prisoners were sometimes exchanged. Eight miles above Dutch Gap Canal was Chaffin's Bluff; and one mile above that was Drury's Bluff seven miles below Richmond (folio 252). General Lee's lines ran across the river from Drury's

Bluff to Chaffin's (folio 279). Just above Drury's Bluff were the Confederate obstructions; and just below Chaffin's Bluff were the three principal rebel war vessels, Virginia, Fredericksburg, and Richmond—the Texas, an unfinished ironclad, lying at Chaffin's Bluff.

The most accurate account of the movements of the United States vessels, and the times of such movements, appears to be that of James Parker, a witness for the libellants, and, in April, 1865, a lieutenant-commander, in command of the United States steamer Maumee (folios 85, &c.). Immediately before testifying he had, by permission of the commission, examined his letter books and papers.

He states that during the night of April 2d he heard heavy cannonading (as he understood, betwixt the United States ships and the Confederate battery at Howlett's) and also explosions. The Maumee was then lying between the lower end of Dutch Gap and City Point which is 22 miles further down the river.

On the evening of the 3d he was ordered to proceed up the river in pursuit of the rebels, but could not get under way until 4 a. m. on the 4th (folio 89). At about 7 a. m. he arrived at the obstructions below Howlett's; other vessels had passed there and were proceeding up, dragging for torpedoes, &c. At half-past one p. m. he reached the obstructions at Drury's, and found all the United States vessels stopped by them (folio 91). The Maumee got through first of all the war vessels. By this time President Lincoln and Admiral Porter came up. Subsequently, at 3 p. m., the Maumee grounded upon Richmond Bar, and the President and Admiral passed on before. The Maumee reached Richmond (Rockett's) on the next morning (the 5th). The Beaufort was found at that place on the ways.

These dates correspond with those given in a report by Admiral Porter to the Secretary of the Navy, dated April 5, 1865 (folio 338); and also with the facts (folio 279) that General Lee informed the Confederate civil authorities on the forenoon of Sunday the 2d that he should immediately evacuate his lines and the city of Richmond; and that he did so during that night, and ordered the James River batteries to be withdrawn (folios 301, 304). The time of the evacuation of the river batteries fixes the day of Captain Breese's conversation with Ronckendorff (folio 391) and, consequently, that of Admiral Porter's orders to the latter to proceed up the river, Ronckendorff being the senior officer of the advanced portion of the United States squadron near Howlett's. This order was therefore given on Monday the 3d.

Captain Chandler's *reason* for believing that it was upon Sunday the 2d, that Porter gave his order to Ronckendorf (folio 444) cannot countervail the concurrent evidence showing that it must have been upon Monday. And it is to be observed that that reason led him (*necessarily*) to conclude that President Lincoln reached Richmond upon the *third*, which was a day sooner than he did.

The Confederate vessels of war were blown up on Sunday night, the 2d of April, about 2 o'clock (folios 258, 289, 293, 305, &c.).

The tide flows in the James River as far as Richmond, and the river is navigable to that point for vessels of 2,500 tons (folios 108 and 178).

A number of very large estimates of the value of the Confederate war vessels captured and destroyed as above in James River will be found at various points in the record. In accordance with these, Judge Humphreys in the court below found that the libellants were entitled to $200 each for 3,332 men in the Confederate force by them overcome (folio 369); and having referred some further questions to a commissioner, the latter reported the value of the Texas and the Beaufort, which were not destroyed, with the property on board, at $892,121.66 (folio 327).

Official valuations placed upon these vessels by naval experts in June and September, 1865, were, however, for the former $91,220 and for the latter $2,000 (folios 354 and 357).

The enactments of the prize act, so far as important here, are as follows. (See Rev. Stats., §§ 4613, &c.)

After making provision in ordinary cases of prize—for preserving documents and evidence, sending in the prize, filing libel, &c.—it is enacted:

SEC. 4624. Whenever any captured vessel, arms, munitions, or other material are taken for the use of the United States before it comes into the custody of the prize court, it shall be surveyed, appraised, and inventoried by persons as competent and impartial as can be obtained, and the survey, appraisement, and inventory shall be sent to the court in which proceedings are to be had; and if taken afterward, sufficient notice shall first be given to enable the court to have the property appraised for the protection of the rights of the claimants and captors. In all cases of prize property heretofore taken for or appropriated to the use of the government, or that shall hereafter be so taken or appropriated, the department for whose use it is taken or appropriated shall deposit the value thereof with the assistant treasurer of the United States nearest to the place of the session of the court, subject to the order of the court in the cause.

SEC. 4625. If by reason of the condition of the captured property, or if because the whole has been appropriated to the use of the United States, no part of it has been or can be sent in for adjudication, or if the property has been entirely lost or destroyed, proceedings for adjudication may be commenced in any district the Secretary of the Navy may designate. And in any such case the proceeds of anything sold, or the value of anything taken or appropriated for the use of the United States, shall be deposited with the assistant treasurer in or nearest to that district, subject to the order of the court in the cause. If, when no property can be sent in for adjudication, the Secretary of the Navy shall not, within three months after any capture, designate a district for the institution of proceedings, the captors may institute proceedings for adjudication in any district. And if, in any case of capture, no proceedings for adjudication shall be commenced within a reasonable time, any parties claiming the captured property may, in any district court, as a court of prize, move for a monition to show cause why such proceedings shall not be commenced, or institute an original suit in such court for restitution, and the monition issued in either case shall be served on the attorney of the United States for the district, and on the Secretary of the Navy, as well as on such other persons as the court shall order to be notified.

* * * * * * *

SEC. 4635. That a bounty shall be paid by the United States for each person on board any ship or vessel of war belonging to an enemy at the commencement of an engagement, which is sunk or otherwise destroyed in such engagement by any ship or vessel belonging to the United States, or which it may be necessary to destroy in consequence of injuries sustained in action, of one hundred dollars, if the enemy's vessel was of inferior force, and of two hundred

> dollars, if of equal or superior force, to be divided among the officers and crew in the same manner as prize money; and when the actual number of men on board any such vessel cannot be satisfactorily ascertained, it shall be estimated according to the complement allowed to vessels of its class in the Navy of the United States; and there shall be paid as bounty to the captors of any vessel of war captured from an enemy, which they may be instructed to destroy, or which shall be immediately destroyed for the public interest, but not in consequence of injuries received in action, fifty dollars for every person who shall be on board at the time of such capture.

Inasmuch as three distinct cases are named in the record as having been brought by these libellants in the district court (under different theories, perhaps, as to the claim of the libellants), and as having pended there at the same time, it is to be remarked that this case is the so-named *number* 268 (folios 13 and 377).

In support of the decree of dismissal below it is submitted:

1. That the above case has never been properly constituted in court.
2. That a suit in court is not a competent method for recovering the *bounty* given by section 11 of the act of 1864, above.
3. That the record shows a case of *joint capture by the Army and Navy*, and therefore does not warrant proceedings in prize.

1. The case is not properly constituted.

The libel specifies *eleven* vessels. As to *nine* of these, which it represents to have been destroyed, it seems that no case is made out, or sought to be, excepting under

4635

section ~~11~~ above. As to the other *two*—the Texas and the Beaufort—no allegations whatever are made, except that in April, 1865, they were a part of the Confederate naval force in James River. Indeed as is submitted, *the libel* goes upon a claim for *bounty* alone, the reference to the Texas and Beaufort being casual; there is no prayer for condemnation, or for anything except *bounty*.

The jurisdiction of any particular court in a matter of prize depends generally upon the fact that the captured vessel was sent into its *district*. That was not the case as to the court here. In an exceptional case, *i.e.*, when no property *can* be sent in for adjudication (section 4625 above) the Secretary of the Navy may designate a court. It does not appear that such designation ever was made here, or even that the condition upon which it might have been made ever existed. The present may be a case in which no captured property *has been* sent in, but it is not one in which no such property *could be* sent in A previous passage in the same section shows that these expressions are not equivalent. *Again*, this libel is not warranted (although it is so intimated by a prayer for a *monition*) by the last sentence in section 4625. For that sentence applies only to *claimants*, and the distinguished gentlemen who are named in the libel are very far from filling or pretending to that character as to the property in question; their position being that of *quasi-captors*, although, as is submitted, not really such in the view of a prize court.

2. As for the bounty given by section 4635 (above), which, upon a perusal of the libel (as also the decree by Judge Humphreys (folio 367) seems to have been the main point of contention below, it seems plain that it is no proper ground for a libel.

3. The above objections are more or less merely technical: it remains to submit that the libellants have no cause of action under the statutes which regulate prize.

From 1861 to 1865 the capture of Richmond was the formal object of all war operations upon the James from Petersburg up. In this struggle the Army was necessarily the great factor, but for a complete success the Navy was quite indispensable. Commander Parker says (folio 95), "As soon as General Grant with the Army reached the James *he began to cry out for gunboats*, and they were at once sent up the river and kept his communications open." This passage in the evidence of the libellants represents the squadron as secondary to the Army, and as being under General Grant's *virtual* if not *formal* control. *The lines of both armies crossed the James*; and although at that point the presence of a naval force was necessary to preserve continuity, yet that necessity included an equal necessity that *the whole force upon each side should be under the immediate control of some single war-expert.* The unity so created is of course not affected by the circumstance that the magnitude of the respective forces or any other incidental circumstance required the operations of the Army and Navy to be separated by a distance of several miles, any more than in the absence of a naval force such circumstance would have affected the unity of the operations of the two wings of the Army alone.

The direct results of the battle of Five Forks, upon Saturday the 1st of April, had conclusively demonstrated to the Confederate commander-in-chief that the defense of Richmond was ended. What remained after that for the United States was merely in due season to gather up the fallen fruit. After "Five Forks," the war cloud was necessarily and at once to roll off from Richmond as far as it might. This battle therefore *as necessarily* involved the destruction of the Confederate James River fleet. To ascribe that destruction to any other cause is, with all due respect to those who think otherwise, mere *nibbling* and refinement. No doubt the presence of the North Atlantic squadron did then, as before, prevent the Virginia and her consorts from escaping down the James, and consequently rendered the decision upon the part of the officers of these vessels to blow them up imperative and easy. But this effective coöperation by the United States Navy was not at all increased by any movement upon its part on or after the 2d of April, supposing for argument's sake (*what seems disproved*) that it did move before Monday the 3d, or before the explosions and abandonment. Manifestly, if the North American Squadron had never gone above "Trent's Reach" the Virginia, &c., would equally have been destroyed, or fallen into the hands of the United States.

Upon the whole, it seems that nothing but the magnitude of the operations and consequent extent of territory covered at the siege of Richmond, can give color to any doubt whether those operations were for immediate war purposes *a unit.*

The case of the Siren (13 Wall., 389) is therefore a direct authority here.

The respective distances in that case and in this are probably not very unlike, and the circumstance that what was captured *there* was a *blockade-runner*, whilst *here* it was *war-vessels*, appears to be a detail without significance for the question before the court.

Another defense may be made, under two statutory provisions which, by the brief of the learned counsel for the appellants, appear to have been relied upon on behalf of the United States in the argument below.

The act of 1863, ch. 120, sec. 1 (March 12, 1863), provides as follows:

> That it shall be lawful for the Secretary of the Treasury, from and after the passage of this act, as he shall from time to time see fit, to appoint a special agent or agents to receive and collect all abandoned or captured property in any State or Territory, or any portion of any State or Territory, of the United States, designated as in insurrection against the lawful government of the United States by the proclamation of the President of July first, eighteen hundred and sixty-two: *Provided*, That such property shall not include any kind or description which has been used, or which was intended to be used, for waging or carrying on war against the United States, such as arms, ordnance, ships, steamboats, or other water craft, and the furniture, forage, military supplies, or munitions of war. (12 Stat., 820.)

In connection with this section is to be read section 7 of the act of 1864, ch. 225, which is:

> That no property seized or taken upon any of the inland waters of the United States by the naval forces thereof, shall be regarded as maritime prize; but all property so seized or taken shall be promptly delivered to the proper officers of the courts, or as provided in this act and in the said act approved March twelve, eighteen hundred and sixty-three. (13 Stat., 377; Rev. Stat., § 5310.)

These provisions were before the court in the case of The Cotton Plant, 12 Wall., 577.

I submit that the word "property" in the above act of 1864 is to receive a larger signification than the one expressly assigned to it in the act of 1863. For the *property* therein spoken of was not always to be turned over to agents for "captured and abandoned property," but in fit cases was to be turned over to "proper officers of the courts." This shows that the word as used in the act of 1864 was intended to have a broader meaning than in that of 1863. In such case, under the circumstances, it must have its ordinary sense. I therefore submit that the above provision of the act of 1864 applies here—*James River above Trent's Reach*, belonging manifestly, as is also submitted, to the class of "inland waters of the United States."

S. F. PHILLIPS,
Solicitor-General.

16-613

AGREED RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 1,134.

ANDREW ALBRIGHT, EDWIN R. CAHOONE, AND
SAMUEL E. TOMPKINS, APPELLANTS,

VS.

ANDREW TEAS.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR
THE DISTRICT OF NEW JERSEY.

FILED NOVEMBER 1, 1882.

SUPREME COURT OF THE UNITED STATES.

No. 1,134.

ANDREW ALBRIGHT, EDWIN R. CAHOONE, AND
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1 In the Supreme Court of the United States.

October Term, A. D. 1882.

ANDREW ALBRIGHT ET AL., APPELLANTS,
vs.
ANDREW TEAS, APPELLEE.
} No. 1,134.

In the above case it is hereby stipulated that the clerk need not print any portion of the record except the pleadings, the petition for removal, and the orders and stipulations made in the cause, and the letter of King & Woodruff to A. Q. Keasbey & Sons of October 14, 1879, and the reply of A. Q. Keasbey & Sons, dated October 27th, as they appear in the testimony of Andrew Teas, the complainant.

ERRATA.

The following stipulation is omitted from the record:—

"It is agreed that complainant may put in official printed copies of any patents which are the subject of controversy, instead of the originals, or certified copies. The complainant's solicitor states that Exhibits 21, 27, 20, 26 and 8 are put in evidence under the above stipulation."

The word "improvements" should be substituted for the word "provisions" in the second paragraph of the letter of A. Q. KEASBEY & SONS, on page 20, between the words "the" and "covered."

ANDREW TEAS, COMPLAINANT,
and
ANDREW ALBRIGHT & ALS., DEFENDANTS.
} Bill for accounting and relief.

KING & WOODRUFF,
Solicitors.

To His Honor, Theodore Runyon,
Chancellor of the State of New Jersey:

Humbly complaining shows unto your Honor your orator Andrew Teas, of the city of Newark, in the county of Essex, and State of New Jersey, that he is the original inventor and patentee of certain articles denominated in the letters-patent issued to him as "Improvements in Coach-pads," "Improvements in Harness-saddles," and "Improvements in Saddle-trees;" that the said articles were patented in the United States of America and letters-patent issued to your orator from the Patent Office of the United States; that the said letters-patent are designated by the numbers and were issued at the times hereinafter stated: Number one hundred and forty-four thousand one hundred and sixty-four
3 (144,164), which was issued on the twenty-eight day of October, A. D. eighteen hundred and seventy-three; number one

hundred and sixty-six thousand nine hundred and seven, which was issued on the seventeenth day of August, A. D. eighteen hundred and seventy-five; number one hundred and seventy thousand nine hundred and sixteen (170,916), which was issued on the seventh day of December, A. D. eighteen hundred and seventy-five; number one hundred and seventy-three thousand three hundred and seventy-one (173,371), which was issued on the eight day of February, A. D. eighteen hundred and seventy-six; and number one hundred and eighty thousand six hundred and seventy-six (180,676), which was issued on the first day of August, A. D. eighteen hundred and seventy-six.

And your orator further shows unto your honor that the abovenamed letters-patent are of great value; that the improvements therein stated have been applied to a very large amount of goods which are now in use, and that a great and constant demand exists for such goods; that your orator considers said letters-patent worth the sum of fifty thousand dollars, and that they are all valid and in full force.

And your orator further shows that in pursuance of the agreement, of which the following is a true copy, he assigned all of said letters-patent to Andrew Albright and Edwin R. Cahoone, both of the city of Newark aforesaid.

Agreement.

This agreement made by and between Andrew Teas, Edwin R. Cahoone, and Andrew Albright, all of the city of Newark.

Witnesseth, to the fulfillment of which we, the said Andrew Teas, Edwin R. Cahoone, and Andrew Albright, bind ourselves, heirs, and legal representatives.

4 For and in consideration of the sum of one dollar to each of us in hand paid by the others, and for certain assignments from said Teas to said Albright of certain letters-patent, and for assigments of certain letters-patent by the said Teas to the said Cahoone and Albright, said assignments bearing even date herewith.

And for the further consideration of the sum of one dollar now in hand paid by Edwin R. Cahoone and Andrew Albright to Andrew Teas—

The said Andrew Teas agrees and covenants, that whenever requested, he will without cost or charge, on his part, execute all proper instruments in writing which may be required to perfect the titles conveyed, and to be conveyed at law and in equity, by him to the said Enwin R. Cahoone and Andrew Albright in the letters-patent, No. 144,164, No. 160,907, No. 170,916, dated December 7th, 1875, October 28th, 1873 and August 17th, 1875.

And in letters-patent now pending an issue from the Patent Office, for which application has been or shall be made by the said Andrew Teas, on or before the date of this agreement.

And that whenever he shall invent any other improvements relating to, and for improvements in the construction of gig-saddles and coach-pads for harness, he will without cost, or the payment of any monies to him, execute or cause to be executed all proper instruments in writing with which to procure letters-patent therefor; and will fully execute and deliver assignments therefor, for such inventions to the said Edwin R. Cahoone and Andrew Albright, to be held and enjoyed by them, their heirs and legal representatives and assigns.

And the said Edwin R. Cahoone and Andrew Albright, for and in consideration of the sum of one dollar to them in hand paid by the said Andrew Teas and of the premises, covenants for themselves, heirs, legal representatives and assigns—

That they will use their best endeavors to have the afore-
5 said inventions worked, goods manufactured and sold, to the
best advantage to themselves and the said Teas.

It is further covenanted and agreed that the said Cahoone and Albright shall pay out of the profits arising from the manufacturing and selling of all goods made and sold under the letters-patent named in this agreement, the following royalties: one cent each on all gig-tree frames under the size of four and one-half inches, and two cents each on all gig-tree frames, on all that are above four inches in size, and two cents each on all gig-tree frames with leather jockeys, made and sold under letters-patent bearing date December 7th, 1875, No. 170,916.

The royalties on all goods manufactured and sold under any inventions for improvements in gig-saddles or coach-pads, that the said Andrew Teas shall make and assign under this agreement, and which is not specially provided for herein, shall be not to exceed the sum of five (5) per centum. It is also stipulated and agreed, by and between the parties named in this agreement, that the sum of one (1) per centum shall be paid out of the profits arising from the manufacture and sale on the gross amount of all the goods made and sold under the letters-patent assigned by said Andrew Teas to Edwin R. Cahoone and Andrew Albright, for the full time for which said letters-patent were granted.

Said royalties and per centum shall be paid on the first days of February and August of each year until the expiration of said letters-patent.

The said Cahoone and Albright further covenant and agree that the royalty on all coach-pads, for which patents pending the application of said Teas in the Patent Office for certain improvements, or for certain improvements that shall be made by him in coach-pads, shall be the sum of two cents each on all manufactured and sold under said letters-patent.

And it is stipulated and agreed that the said Cahoone and Al-
bright will assume and pay all just and necessary expenses
6 for the purpose of procuring and sustaining all of said let-
ters-patent against infringers, provided it shall be for the

mutual interests and financial benefits to all the parties named in this agreement.

In witness whereof we have herewith hereunto set our hands and seals, this first day of February, 1876.

ANDREW TEAS. [L. S.]
E. R. CAHOONE. [L. S.]
ANDREW ALBRIGHT. [L. S.]

Signed, sealed, and delivered
in the presence of—
ABRAHAM MANNERS.

It is also stipulated and agreed that during all the time for which this agreement continues the books shall be open to the inspection of the said Andrew Teas, or his agent, for examination."

And your orator further shows that it appears by said agreement, above set forth at length, that a certain patent therein called No. 160,907, was to be assigned by your orator to said Albright and Cahoone, but your orator charges and insists that the said patent referred to is not No. 160,907, as therein stated, but is 166,907, and that the number 160,907 was inserted in said agreement through a mere clerical error.

And your orator further shows that the last clause in said agreement, that is to say, the clause relating to the right of your orator or his agent to inspect the books of the said Albright and Cahoone, was suggested and insisted upon by your orator as a condition precedent to his executing the same, and was therein inserted previously to the delivery of the papers and the execution of the assignment of said letters-patent by him to said Albright and Cahoone; that said clause was always considered by your orator as intended for his protection, and for the purpose of 7 enabling him to ascertain the amounts which would grow due him from time to time upon said agreement for royalties and percentages.

And your orator further shows that, in pursuance of the agreement above set forth, he did, on or before the first day of February, A. D. eighteen hundred and seventy-six, assign letters-patent No. 144,164, No. 166,907, and No. 170,916 to said Albright and Cahoone, and that he subsequently assigned letters-patent No. 173,371 and No. 180,676 to the same persons, also in strict pursuance of said agreement; that the true and only considerations for which said letters-patent, or any of them, were assigned, as aforesaid, are expressed in said agreement, and that said agreement is in full force, no part thereof having been ever abrogated or changed.

And your orator further shows that he has never been able to obtain proper access to the books of account of the said Cahoone and Albright, in order to ascertain the amount due him from them, although he has repeatedly endeavored to obtain such access under said agreement. That on three separate and distinct occasions they have promised to permit him to examine their books; that on those occasions he has, by himself and his agent, endeavored so to do; that both himself and his agent, on each and every of those occasions, were so restricted and annoyed by said Albright and Cahoone, and their employees, that it was impossible for him or them to make a proper examination of said books and ascertain the amount due your orator under said agreement.

And your orator further shows unto your Honor, that the said Albright and Cahoone have not rendered your orator a true semi-annual statement of the amount due from them to him, as provided in said agreement, as your orator is informed and verily believes; that your orator is informed in such manner that he 8 believes it to be true that the said Albright and Cahoone are indebted, under and by virtue of said agreement, to him in a very large sum; that your orator believes that said sum exceeds ten thousand dollars in amount, as he has learned from various sources, and has personal knowledge that a very large amount of goods have been manufactured by the said Albright and Cahoone, under the name of the Cahoone Manufacturing Company, and by Samuel E. Tompkins, Andrew Albright, and Edwin R. Cahoone, under the name of Samuel E. Tompkins, Cahoone & Co.

And your orator further shows that he admits having received from the said Cahoone and Albright, and their agents, five certain statements of account since the execution of the aforesaid agreement, and that it appears thereby that your orator has been credited with the total sum of nine hundred and twenty-five dollars and three cents, and charged with the sum of seven hundred and eighty-seven dollars and sixteen cents, or thereabouts; but your orator insists that the said statements are grossly erroneous and false, both as to the credits and charges.

And your orator further shows unto your Honor, that for some time after the execution of the aforesaid agreement, the business of manufacturing the goods described in said patents was carried on by the said Albright and Cahoone, under the name of the Cahoone Manufacturing Company, and that afterwards said business was, and now is, carried on by Samuel E. Tompkins, Andrew Albright and Edwin R. Cahoone, under the name of Samuel E. Tompkins, Cahoone & Co.; that books of account have been kept by both the Cahoone Manufacturing Company and Samuel E. Tompkins, Cahoone & Co., and that your orator believes that the amount due him from said Albright and Cahoone can be ascertained from the books of said concern.

And your orator further shows that he is uninformed as to the precise business relations existing between Samuel E. 9 Tompkins, Andrew Albright and Edwin R. Cahoone, or as to whether the said Samuel E. Tompkins has any interest in, or title to, the said patents under any assignment, agreement or otherwise between himself and said Albright and Cahoone, and leaves him to make such proof as to his relations with said parties, in respect to said patents, as he may deem fit; but your orator charges that many items appear in the books of account of the said Samuel E. Tompkins, Cahoone & Co., of which it is necessary your orator should have information for the purposes of this suit, and in which the said Samuel E. Tompkins has an interest of some nature.

And your orator further shows unto your Honor that the accounts between your orator and Andrew Albright and Edwin R. Cahoone are mutual and very complicated; that they are so on account of unsettled differences existing as to the amount with which your orator should have been charged by them, and that it will be a tedious and difficult task to ascertain the amount due from them to him on account of the way in which goods have been manufactured under said patents; that the said Cahoone and Albright have caused such goods to be manufactured in such a manner that they have applied in some cases the principles of several patents to one article, and your orator believes that the amount due from them to him can only be ascertained by and with the assistance of this Honorable Court.

But now, so it is, may it please your Honor, that the said Andrew Albright, Edwin R. Cahoone and Samuel E. Tomkins, combining and confederating with other persons not known to your orator, but whose names when discovered he prays he may be at liberty to insert herein with proper and apt words to charge them as parties defendant hereto, and contriving how to wrong and injure your orator in the premises, refuse to comply with your orator's reasonable requests that they should well, faith-
10 fully and honestly account to your orator for the amount due from them to him for the royalties and percentage aforesaid, and strictly comply with the provisions of the agreement above set forth.

In tender consideration whereof and forasmuch as your orator has not a complete remedy by the strict rules of the common law, and can only have adequate relief in a court of equity where matters of this kind are properly cognizable and relievable.

To the end, therefore, that the said Andrew Albright, Edwin R. Cahoone, and Samuel E. Tompkins, and their confederates when discovered, may, without oath, full, true, and perfect, answer make to all and singular the matters hereinbefore stated, and that as fully as if the same were here again repeated, and they thereto fully interrogated; that the said defendants may make a full and true discovery and disclosure of and concerning all and singular the accounts, transactions, and matters aforesaid, and that a full, complete, and adequate account may be taken by and under the direction of this honorable court, of all dealings and transactions heretofore had between your orator and the said defendants, concerning the royalties and percentages claimed by your orator, under and by virtue of the agreement hereinbefore set forth, made and executed by and between your orator and Andrew Albright and Edwin R. Cahoone on the first day of February, A. D. eighteen hundred and seventy-six, and that the said Andrew Albright and Edwin R. Cahoone be charged not only with the aggregate amount of said royalties and percentages, but also with lawful interest thereon from the time the same became due, and that the balance which shall be found due your orator upon taking such account may be decreed by the order and decree of this honorable court to be paid by said Andrew Albright and Edwin R. Cahoone to your orator, (he being ready and willing and hereby submitting to pay them any balance which shall be found due from him to them.)

11 And that your orator may have such other and further relief as the nature of the case may require, and as shall be agreeable to equity and good conscience.

May it please your Honor, the premises considered, to grant unto your orator the state's writ of subpœna issuing out of and under the seal of this honorable court, to be directed to the said Andrew Albright, Edwin R. Cahoone, and Samuel E. Tompkins, therein and thereby commanding them on a certain day and under a certain penalty therein to be inserted, to be and appear before this honorable court, then and there to answer all and singular the premises, and to stand to, abide by, and perform such order and decree therein as to your honor shall seem meet, and shall be agreeable to equity and good conscience. And your orator, as in duty bound, will ever pray, &c.

KING & WOODRUFF,
Solicitors of Complainant.

J. WHITEHEAD,
of Counsel.

NEW JERSEY, *ss.*

Andrew Teas, the complainant in the annexed bill named, being duly sworn according to law on his oath, saith that the matters and things set forth in the annexed bill, so far as they relate to his own acts and deeds, are true, and so far as they relate to the acts and deeds of others, he believes them to be true.

ANDREW TEAS.

Sworn and subscribed before me, at Newark, this 7th day of May, A. D. 1879.

OSCAR NAUNDORFF,
Master in Chancery of New Jersey.

Filed May 8th, 1879.

12 In Chancery of New Jersey.

Between
Andrew Teas, Complainant,
and
Andrew Albright, Edwin R. Cahoone,
and Samuel E. Tompkins, Defendants.

The joint and several answer of Andrew Albright and Edwin R. Cahoone to the bill of complaint of Andrew Teas, complainant.

These defendants now and at all hereafter, saving and reserving to themselves all manner of benefit and advantage of exception to the many errors and insufficiencies in the complainant's said bill of complaint contained, for answer thereto, or unto so much and such parts thereof as these defendants are advised is material for them to make answer unto, answer and say: That they admit that the said Andrew Teas is the patentee of certain articles denominated in certain letters-patent issued to him as "improvements in coach pads," "improvements in harness saddles," and "improvements in saddle trees;" and that certain letters-patent were issued to the said complainant as stated in the said bill, viz: Patent No. 144,164, which was issued on the twenty-eighth day of October, eighteen hundreed and seventy-three; No. 166,907, which was issued on the seventeenth day of August, eighteen hundred and seventy-five; No. 170,616, which was issued on the seventh day of December, eighteen hundred and seventy-five; No. 173,371, issued February eighth, eighteen hundred and seventy-six; and No. 180,676, issued on the first day of 13 August, eighteen hundred and seventy-six; but these defendants do not admit or deny that the said Andrew Teas was the original inventor of the said improvements, but leave him to make proof of the same if he shall deem it necessary or material so to do.

And these defendants further answering, admit that the said improvements, or some of them, have applied to a considerable amount of goods in connection with other valuable improvements owned or controlled by these defendants, and that there is considerable demand for such goods when the same embrace not only the improvements contained in the patents above mentioned, but also the more valuable improvements owned or controlled by these defendants.

And these defendants further answering say: That they admit that the said complainant assigned all of said letters-patent to these defendants in pursuance of an agreement which these defendants believe to be truly copied in said bill, but for greater certainty they pray that reference may be had to the same and due proof made thereof; and they admit that it may be true that the patent referred to in the agreement as No. 160,907 should be

No. 166,907, and that the former number was inserted as a clerical error.

And these defendants further answering say: That it is true that the last clause in the said agreement relative to the right to examine books was inserted previous to the delivery of the paper and ought to be taken as part thereof, although not signed by the parties.

And these defendants further answering say: That in pursuance of said agreement the complainant did assign, on the first day of February, eighteen hundred and seventy-six, three of the said letters-patent mentioned in said bill, and subsequently the two other letters-patent in said agreement named, and that the only consideration for the same is expressed in the agreement, and that the agreement is in full force.

14 And these defendants further answering say: That they deny that the complainant has never been able to obtain proper access to the books of account of these defendants, in order to ascertain the amount due him from them; and they deny that they have ever made any promises to the complainant respecting the said books which they have not fairly and properly fulfilled; and they deny that they have ever subjected him to any improper restrictions or annoyances in the examination of the said books and in ascertaining the amount due to him under said agreement.

And they, further answering, say: That it is not true that they have not rendered true semi-annual statement of the amount due to him under said agreement, but, on the other hand, they allege that they have at all times rendered to the complainant full, true, and accurate accounts of all the sums fairly and properly due to him under the said agreement, and have paid him the same from time to time, and oftentimes in advance; and these defendants deny that they are indebted to the complainant under said agreement in any sum whatever; and they deny that any goods have been manufactured by these defendants under the name of the Cahoone Manufacturing Co., or by the firm of Samuel E. Tompkins, Cahoone & Co., which embrace any of the improvements in any of the said letters-patent which have not been fully accounted for to the said complainant, and all royalties and percentages provided for by said agreement fully paid thereon; and these defendants deny that the statements and accounts heretofore rendered to the complainant are erroneous in any respect.

And these defendants further answering say: That it is true that for some time after the execution of the said agreement the business of manufacturing the goods, to which the said patents were in some measure applied, was carried on by these defendants under the name of the Cahoone Manufacturing Co., and
15 that afterwards said business was, and now is, carried on
by Samuel E. Tompkins and these defendants, under the name of Samuel E. Tompkins, Cahoone & Co., and that books of

account have been kept by both said parties and by these defendants, and that it is true that the amount due from time to time to the complainant under said agreement can be ascertained from the said books; and they say that they and the said Samuel E. Tompkins have at all times been ready, and are now ready, to furnish all the information which can be derived from said books, bearing in any manner upon the rights of the complainant under said agreement.

And these defendants further answering say: That they deny that the accounts between them and the complainant are complicated, but that they admit that there may be differences between them and the complainant, but if such differences exist, they will arise from the wrong construction of the said agreement by the said complainant, and from unfounded claims as to his rights under the same; and they deny that it will be tedious or difficult to ascertain the amount due to him from time to time under a fair construction of the agreement, but they admit it to be true that in manufacturing these goods for the market they have necessarily made them in such manner as required the application of the principles of several patents to one article, including patents not embraced within the scope of said agreement.

And these defendants further answering say: That at the time of the execution of said agreement with the complainant they were engaged in earnest litigation with Samuel E. Tompkins, concerning the validity of certain patents for improvements in saddletrees owned by said Tompkins, and concerning alleged infringements of said patents, and that in consequence of said litigation and the rivalry in business between these defendants and said Tompkins, great injury resulted to the trade of both 16 parties; and that about the eleventh of October, eighteen hundred and seventy-seven, an agreement was made between these defendants and said Tompkins to cease their litigation and to unite their business, and since that time said business has been carried on in the name of Samuel E. Tompkins, Cahoone & Co., which firm has been entitled to use all of the patents owned by these defendants and by said Tompkins, including the improvements embraced in the said patents assigned to these defendants by the complainant, and that these defendants, before the said change in their business, and the said new firm since said change, have applied and used said patents assigned by the complainant to a greater or less extent to certain goods made and sold by them, in connection with other improvements covered by other patents owned by them, and that both before and since said change they have carefully kept accounts of all the goods which embraced any of the improvements covered by the said patents assigned by the complainants, although such improvements have been in a great measure superseded and rendered useless by the control of the various patents of Samuel E. Tompkins, with whom they were in litigation at the time of said agreement; and that such books have been, at all reasonable times, open to the inspection of said complainant, and full statements and accounts therefrom have from time to time been furnished to the complainant, and made the basis of frequent payments to him under said agreement.

And these defendants further show, that the said firm of Samuel E. Tompkins, Cahoone & Co., are largely engaged in the manufacture of saddlery and saddlery hardware, and their business embraces a very large variety of goods which have no relation whatever to the improvements covered by any of the patents referred to in said agreement, and tnat many of said goods which do embrace such improvements also embrace improvements covered by
patents—being over seventy in number—owned by said
17 Tompkins and others; and that it is impossible for the de-
fendants to submit to the indiscriminate scrutiny of the complainant all the books relating to the firm of Samuel E. Tompkins, Cahoone & Co., without the consent of said Tompkins, who was not a party to said agreement, and is not in any way bound by its provisions; that the said Tompkins has always disputed the validity and value of the patents referred to in said agreement and has claimed that they were all anticipated by his own patents, and that any goods made under them were infringements of his patents, and that so far as he is concerned he is not bound to pay any royalties or percentage to the complainant.

And these defendants further answering say: That desiring to fulfill their agreement fairly they have always caused accounts to be kept of all goods which on any reasonable construction can be held to embrace or contain any of the improvements covered by any of said patents assigned by the complainant, and they have always, both before and since said change, paid all sums due under said agreement in full, and if the complainant demands any further payment, or seeks to make further examination of said books, it is only because he claims or alleges without reason that goods made under the patents of said Tompkins are infringements of his patents assigned by these defendants, and these defendants respectfully insist that the question of such infringement cannot be tried in this suit, and is not a subject of which this court has jurisdiction; and at the same time they allege that no such infringement has been committed, but that the complainant has been fully and fairly paid all sums due to him under said agreement.

And these defendants further answering say: That if any moneys were due to the complainant under said agreement, which they deny, the complainant would have a full and complete remedy for the recovery of the same by an action at law, and full right
under the statute regulating the practice of the courts of
18 law to obtain discovery and inspection of all such books
and accounts as he is entitled to demand under the provisions of said agreement, and these defendants pray that they may have

the same advantage of this defence as if they had demurrred to the complainant's bill upon that ground.

And these defendants deny all combination and confederacy in such bill charged, without this that any other matter or thing material for these defendants to make answer unto, and not herein or hereby answered, confessed or avoided, traversed or denied, is true to the knowledge or belief of these defendants.

All which matters and things these defendants are ready to aver, maintain, and prove as this honorable court shall direct, and humbly pray that they may be hence dismissed with their costs and charges in this behalf sustained.

STATE OF NEW JERSEY, *ss.*

Andrew Albright and Edwin R. Cahoone, being duly sworn, on their several oaths, say, each for himself, that he is one of the defendants mentioned in the foregoing answer, and that the facts therein set forth, so far as they relate to his own acts, are true, and so far as they relate to the acts of others, he believes them to be true.

Sworn and subscribed this 8th day of July, A. D., 1879, before me— } ANDREW ALBRIGHT.
WM. PATTERSON,
Master-in-Chief, *N. J.*

Sworn and subscribed as to Edward R. Cahoone, this 10th day of July, A. D., 1879, before me— } E. R. CAHOONE.
RICHARD WAYNE PARKER,
M. C. C. of N. J.

Filed July 11th, 1879.

19 In Chancery of New Jersey.

Between
ANDREW TEAS, COMPLAINANT,
and
ANDREW ALBRIGHT, EDWIN R. CAHOONE and Samuel E. Tompkins, Defendants. } Answer.

The several answer of Samuel E. Tompkins, one of the defendants, to the bill of complaint of Andrew Teas, complainant.

This defendant, now and at all times hereafter saving and reserving to himself all manner of benefit and advantage of exception to the many errors and insufficiences in the complainant's said bill of complaint contained, for answer thereto, or unto so much and such parts thereof as this defendant is advised is material for him to make answer unto, answers and says: That he admits that the said Andrew Teas is the patentee of certain articles denominated in certain letters-patent issued to him as "improvements in coach pads," "improvements in harness saddles," and

"improvements in saddle trees;" and that certain letters-patent were issued to the said complainant as stated in the said bill, viz: Patent No. 144,164, which was issued on the twenty-eighth day of October, eighteen hundred and seventy-three; No. 166,907, which was issued on the seventeenth day of August, eighteen hundred and seventy-five; No. 170,916, which was issued on the seventh day of December, eighteen hundred and seventy-five; No. 173,371, issued February eighth, eighteen hundred and seventy-six; and No. 180,676, issued on the first day of August, eighteen
20 hundred and seventy-six; but this defendant does not admit or deny that the said Andrew Teas was the original inventor of the said improvements, but leaves him to make proof of the same, if he shall deem it necessary or material so to do.

And this defendant further answering, admits that the said improvements, or some of them, have been applied to goods manufactured by the firm of Samuel E. Tompkins, Cahoone & Co., hereinafter mentioned, but only in connection with other valuable improvements owned by this defendant and others; and he admits that there is considerable demand for such goods when the same embrace not only the improvements contained in the patents above mentioned, but also the more valuable improvements owned by this defendant, and now controlled by the said firm.

And this defendant further answering says: That he has heard from his partners that before the date of the partnership the said letters-patent had been assigned by the complainant under some agreement, but this defendant was not a party to said agreement, and had no interest whatever in the subject-matter thereof and is not bound by any of its provisions, and that he has no personal knowledge of the transaction between the complainant and the said Albright and Cahoone concerning said patents, or of the consideration for the same.

And this defendant further answering says: That at the date of said agreement, this defendant having been for a long time engaged in the saddlery and saddlery hardware business, and having been the inventor of many valuable improvements relating to said business, and the owner of a large number of patents for the same, was engaged in earnest litigation with said Albright and Cahoone, to recover damages for the infringement of his said patents; that at that time this defendant insisted that some of the alleged improvements, patented by said Teas, were infringements of his own patents and were of no value, but that after
21 having been engaged for a long time in such litigation this defendant was pursuaded, on the eleventh day of October, eighteen hundred and seventy-seven, to enter into an agreement with the said Albright and Cahoone to cease their litigation and to unite in their business, and since that time the business has been carried on in the name of Samuel E. Tompkins, Cahoone & Co., which firm has been entitled to use all the patents owned by

this defendant and by said Cahoone and Albright, including the improvements embraced in the patents assigned by the complainant to the said Albright and Cahoone, but this defendant says that he had, at the time of entering into said agreement no knowledge of the details of the arrangement between the complainant and Albright and Cahoone, nor the nature of the obligation assumed by the latter with respect to the said patents, and that this defendant did not assume the burden of any such obligations and is not liable to the said complainant in anywise by reason of said agreement.

And this defendant further answering says: That since the organization of the said firm of Samuel E. Tompkins, Cahoone & Co., the improvements assigned by the complainant have been used by the firm in connection with other improvements patented by this defendant and others without regard to any further questions as to the validity of the same, it having been the object with Albright and Cahoone to end all controversy respecting any of the said patents; and that since the formation of the said firm they have carefully kept accounts of all the goods which embraced any of the improvements covered by the said patents assigned by the complainant, although such improvements have been in a great measure superseded and rendered useless by the various patents of this defendant, now used by the said firm; and that such books have been at all reasonable times open to the inspection of the complainant, and full statements and accounts therefrom have been
22 from time to time furnished to the complainant, and made
basis of the frequent payments.

And this defendant, although disputing the validity of said patents, has always desired to enable the said Albright and Cahoone, his partners, to fulfill their agreement fairly with the complainant; and with that view the said firm have always caused accounts to be kept of all goods which on any reasonable construction can be held to embrace or contain any of the improvements covered by any of said patents assigned by the complainant, and have paid all sums due under said agreement in full, and if the complainant demands any further payment or seeks to make further examination of said books, it is only because he claims, or alleges without reason, that goods made under the patents of this defendant are infringements of his patents assigned to the said Albright and Cahoone; and this defendant respectfully insists that the question of such infringements cannot be tried in this suit, and is not a subject of which this court has jurisdiction, and at the same time this defendant alleges that no such infringement has been committed, but that the complainant has been fully and fairly paid all sums due to him under said agreement.

And this defendant further answering says: That if any moneys were due to the complainant under said agreement, which he denies, the complainant would have a full and complete remedy for the recovery of the same by an action at law, and full right, under the statutes regulating the practice of the courts of law, to obtain discovery and inspection of all such books and accounts as he is entitled to demand under the provisions of said agreement, and this defendant prays that he may have the same advantage to this defence as if he had demurred to the complainant's bill upon that ground.

23 And the defendant further answering says: That the business of said firm embraces a very large variety of goods which have no relation to the improvements referred to in the complainant's bill; and that many of said goods which do embrace such improvements also embrace improvements covered by more than seventy patents owned by this defendant; and that it is impossible for this defendant to submit to the indiscriminate scrutiny of the complainant of all the books relating to the business of his firm, merely in order to enable the said complainant to obtain information in regard to an agreement by which this defendant is not in anywise bound.

And this defendant further answering says: That he is willing to furnish to the complainant, under direction of the court, all information furnished by the books or otherwise, which properly relates to the use of the patents mentioned in said agreement, by the firm of which this defendant is a member.

And this defendant denies all combination and confederacy in said bill charged, without this, that any other matter or thing material for this defendant to make answer unto and not herein or hereby answered, confessed or avoided, traversed or denied, is true, to the knowledge or belief of this defendant. All which matters and things this defendant is ready to aver, maintain, and prove, as this honorable court shall direct, and humbly prays that he may be hence dismissed, with his costs and charges in this behalf sustained.

A. Q. KEASBEY & SONS,
Solicitor and of Counsel with Samuel E. Tompkins, defendant.

STATE OF NEW JERSEY, *ss.*

24 Samuel E. Tompkins, being duly sworn, on his oath saith, that the matters and things set forth in the foregoing answer, so far as they relate to his acts, are true, and so far as they relate to the acts of others, he believes them to be true.

Sworn and subscribed this 11th day of July, A. D. 1879, before me— } SAM'L E. TOMPKINS.

FRANKLIN M. OLDS,
Master in Chancery of N. J.

Filed July 11th, 1879.

In Chancery of New Jersey.

Between
ANDREW TEAS, COMPLAINANT,
and
ANDREW ALBRIGHT ET AL., DEFENDANTS.
} On Bill, &c. Replication.

The replication of Andrew Teas, complainant to the joint and several answer of Andrew Albright and Edwin R. Cahoone, and the several answer of Samuel E. Tompkins.

This repliant, saving and reserving to himself all and all manner of advantage of exception to the manifold insufficiencies of the answers of the said defendants, for replication thereunto says that he does and will aver and prove his said bill to be true, certain, and sufficient in law to be answered unto by the said defendants, and that the answers of the said defendants are uncertain, untrue, and insufficient to be replied unto by this repliant; without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true. All which matters and things this repliant is and will be ready to aver
25 and prove, as this honorable court shall direct, and humbly prays, as in and by his said bill he has already prayed.

KING & WOODRUFF,
Solicitors of Complainant.
J. WHITEHEAD,
Of Counsel with Complainant.

Filed July 28, 1879

In Chancery of New Jersey.

Between
ANDREW TEAS, COMPLAINANT,
and
SAMUEL E. TOMPKINS, EDWIN R. Cahoone, and Andrew Albright, Defendants.
} Petition for removal to the Circuit Court of the United States, District of New Jersey.

To the Honorable Theodore Runyon, Chancellor of the State of New Jersey.

Your petitioners, Samuel E. Tompkins, Edwin R. Cahoone, and Andrew Albright, respectfully shows to this honorable court that the matter and amount in dispute in the above-entitled cause exceeds, exclusive of costs, the sum or value of five hundred dollars, the said suit being brought for an account of dealings had between the parties, concerning certain royalties and percentages claimed by the complainant under an agreement between himself and the defendants Edwin R. Cahoone and Andrew Albright, dated February 1st, 1876, set forth in the bill, and for the payment of the same, which royalties and percentages are, in and by the
26 said bill, claimed to exceed the sum of ten thousand dollars.

That the controversy in said suit is between citizens of the State of New Jersey, the complainant and all the defendants being residents of the city of Newark, county of Essex, and State of New Jersey.

That the said suit was one arising under the laws of the United States in this, to wit: that the royalties and percentages claimed as aforesaid by the complainant are alleged to be due under an agreement made between the complainant and Edwin R. Cahoone and Andrew Albright as aforesaid, whereby in consideration of the assignment of certain letters-patent by the said Andrew Teas to the said Albright and Cahoone described in said agreement, the said Albright and Cahoone agreed to pay certain royalties therein, particularly mentioned on all *saddle-trees* made and sold under letters-patent bearing date December 7th, 1875, and a royalty not exceeding five per centum on all goods manufactured and sold under any inventions and improvements in *gig-saddles* or *coach-pads*, that the said Andrew Teas should make and assign under said agreement, and a certain percentage of the profits arising from the manufacture and sale of all the goods made and sold under the said assigned letters-patent for the full term thereof; and whereby it was also agreed that the said Cahoone and Albright should assume and pay all the just and necessary expenses for the purpose of procuring and sustaining all of said letters-patent against infringements.

And that in the answer filed by the said defendant to the said bill it is set up and alleged that your petitioners fully accounted, with the said Andrew Teas, for all goods sold by them which embrace any of the improvements in any of the said letters-patent so assigned by him, and all royalties and percentages provided by said agreement; and that the claims of said Andrew Teas
27 as to other goods made and sold by your petitioners, upon
which royalties have not been paid, were not the proper subject of a suit in the state court, but really involved a question of infringement of which the state court have no jurisdiction.

And that before the taking of testimony on behalf of the complainant in said cause, the complainant served upon the defendants a notice or request to point out in a list therein furnished all articles which they claimed were not subject to royalties or percentages, and thereupon and in reply thereto, the defendants, in a written communication, dated October 27th, 1879, pointed out the articles which they claimed not to be included in any provisions of the agreement, and not to embrace any of the improvements covered by the patents therein specified, and also alleging that all royalties which were admitted by the defendants to be covered by the agreement were fully paid.

And that thereupon the complainant proceeded to take testimony, and is now engaged in taking testimony, the main burden and purpose of which has been to show that the articles made and sold by the defendants, upon which they refuse to pay royalty, as aforesaid, have been in fact made under the said assigned patents, and do in fact embrace the improvements therein claimed; and the said Andrew Teas in his testimony endeavored to show that all the articles made and sold by the defendants were protected by his patents, and therefore liable to royalty under the agreement, and that any persons manufacturing said articles without paying royalty would be infringers of his patent; and that the said complainant called and examined experts to sustain those claims; and has not yet concluded his testimony.

And that your petitioners claim that in the matter aforesaid the said suit arises under the patent laws of the United States, and that the substantial controversy is one depending upon the construction of the said laws, and is exclusively within the 28 cognizance of the courts of the United States, and that the said suit is removable to the circuit court of the United States under act of Congress, March 3d, 1875.

And your petitioner offers herewith a bond, with good and sufficient surety, for his entering in said Circuit Court of the United States, on the first day of its next session, a copy of the record in this suit, and for paying all costs that may be awarded by said circuit court, if said court shall hold that this suit was wrongfully or improperly removed thereto.

And your petitioners pray this honorable court to proceed no further herein, except to make the order of removal required by law, and to accept the said surety and bond, and to cause the record herein to be removed into said Circuit Court of the United States in and for the District of New Jersey, and he will ever pray.

A. Q. KEASBEY & SONS,
Solicitors of Petitioners.

DISTRICT OF NEW JERSEY, *ss.*

Samuel E. Tompkins, being duly sworn, saith that he is one of the firm of Tompkins, Cahoone & Co., the above-named petitioners, and that the matters and things set forth in the foregoing petition are true to the best of my knowledge, information, and belief.

SAM'L. E. TOMPKINS.

Sworn and subscribed this 2nd
day of June, A. D. 1880,
before me—

WILLIAM PATTERSON,
Master in Chancery in New Jersey.

29 * * * * * * * *

Defendant's counsel offers the letters of October 14th, 1879, and October 27th, 1879, in evidence, and desires that the same may appear in full in the evidence. They are marked respectively 'Exhibits No. 1 and No. 2' on the part of the defendants, and are as follows:

NEWARK, N. J., *October 14th*, 1879.

A. Q. KEASBEY & SONS, *Counsellors and Solicitors of Defendants:*

GENTLEMEN: Will you please check off in ink all articles herein named which you claim are not subject to royalty or percentage in the above cause.

A. Teas' Gig Tree.
A. Teas' Track Tree.
A. Teas' Express Tree.
A. Teas' Coupe Tree.
A. Teas' Iron Jockey Tree.
No. 1 Tree.
No. 101 Tree.
No. 2 Tree.
No. 102 Tree.
No. 1 Gig Tree with Centennial Seat.
No. 8 " " " " "
No. 11 " " " " "
(The last three whether covered or not.)
Track Tree No. 2.
Express Tree No. 12.
No. 3 Improved Express Tree.
No. 4 French Coupe Tree with Centennial Seat.
No. 4 French Coupe Tree with Comet Seat.
Gig Saddles with Comet Seat.
Gig Tree with Comet Seat.
Express Tree with Comet Seat.
No. 8 Patent Gig Tree with Centennial Seat.
Peerless Patent Gig Trees (each size).
No. 103 Tree.
No. 112 Tree.
Coupe Tree No. 104.
French Coupe Tree No. 104 with Comet Seat.
No. 3 Express Tree.
Tompkins' Patent Plain Top Gig Tree No. 22.
Cahoone's Patent Combination Tree No. 111.
Peerless Extra Long Pat. Backband Tree No. 109.
Track Tree No. 109.
Excelsior Patent Gig Tree No. 108.
Bridge for Express Jockeys.
Patent Ornamental Coupe Bridge No. 1.
Patent Ornamental Jockey Bridge No. 4.
Cahoone Pat. Iron Duke Gig and Express Trees No. 13 and 113.
Pat. Iron Duke Gig and Express Tree No. 13 and 113.
Patent Covered Convex Jockey Tree No. 5.
Patent Covered Convex Jockey Tree No. 6.

Imperial Express Tree No. 15.
Patent Convex Iron Jockey Tree No. 105.
Patent Convex Iron Jockey Tree No. 106.
No. 5 Patent Convex Jockey Tree with improved Centennial Seat.
No. 6 Iron Jockey Tree.
Patent Convex-end Iron Jockey Tree No. 7 and No. 107.
Cahoone Patent Convex-end Gig Tree No. 7 and No. 107.
Imperial Gig Tree No. 15 with or without Cahoone patent under-piece.
Centennial Tree No. 40 with or without Cahoone patent underpiece and steel stiffeners.
Tompkins–Cahoone Patent Improved Convex-end Iron Jockey Tree No. 207.
The same No. 212.
Cahoone Pat. Convex-end Improved Iron Jockey Tree No. 7.
Cahoone Patent Convex-end Improved Express Tree No. 7.
31 All Saddles made on above Trees, or any of them.
Cahoone Patent No. 48.

Very respectfully yours,
KING & WOODRUFF,
Solicitors of Complainant.

MESSRS KING & WOODRUFF, *Solicitors of Complainant:*

GENTLEMEN: In replying to your communication of the 14th instant, requesting us to check off all articles therein named, which the defendants claim are not subject to royalty or percentage, in the above case, we say:

That the following articles named in your communication are claimed by the defendants not to be included in any of the provisions of the agreement set forth in the complainant's bill, and not to embrace any of the provisions covered by the patents therein specified, viz:

No. 8, Gig Tree with Centennial Seat.
No. 11, ditto.
No. 8, Patent Gig Tree with Centennial Seat.
Tompkins' Patent Plain Top Gig Tree No. 22.
Cahoone's Patent Combination Tree No. 111.
Excelsior Patent Gig Tree No. 108.
Cahoone's Patent Iron Duke Gig and Express Tree Nos. 13 and 113.
Patent Iron Duke Gig and Express Tree Nos. 13 and 113.
Imperial Express Tree No. 15.
Patent Convex-end Iron Jockey Tree Nos. 7 and 107.
Cahoone's Patent Convex-end Gig Tree Nos. 7 and 107.
Imperial Gig Tree No. 15 with or without Cahoone's patent under-piece.

Centennial Tree No. 40 with or without Cahoone's patent under-piece and steel stiffeners.

Tompkins–Cahoone Patent Improved Convex-end Iron Jockey Tree No. 207.

32 Tompkins–Cahoone Patent Improved Convex-end Iron Jockey Tree No. 212.

Cahoone Patent Convex-end Iron Jockey Tree No. 7.

Cahoone Patent Convex-end Improved Express Tree No. 7.

Cahoone Patent No. 48.

As to the following they make no such trees:

Patent Convex Iron Jockey Tree No. 5.

Patent Convex-end Iron Jockey Tree No. 105.

No. 5 Patent Convex Jockey Tree with Improved Centennial Seat.

As to all the others named the amount due under the agreement were fully paid at the time of filing the bill.

The royalty ledger will show in detail every article sold on which anything is payable under the agreement, and the bookkeeper will exhibit the ledger to the master and will point out the aticles in the books of original entry.

The defendants decline to permit an inspection of their books, as to the details of their business, which do not concern the plaintiff.

If the complainant claims that the goods herein first enumerated are embraced by the patents mentioned in the agreement, the defendants deny that claim, and insist that before any inspection of the books as to these articles shall be ordered the question whether the patents specified in the agreement do in fact cover these articles, should be examined and judicially determined.

Yours truly,
A. Q. KEASBEY & SONS,
Solicitors of Defendants.

* * * * * * * *

33 United States Circuit Court, District of New Jersey.

Between
ANDREW TEAS, COMPL'T,
and
SAMUEL E. TOMPKINS, ANDREW ALBRIGHT, and Edwin R. Cahoone, Defts.
} In Equity. On bill for accounting.

Interlocutory Decree and Reference.

The above-stated cause having been removed to this court from the Court of Chancery of New Jersey upon the petition of the defendants, and the parties having appeared by their counsel on this tenth day of June, A. D. eighteen hundred and eighty; and the counsel for the respective parties having agreed, during the hearing of an argument upon a motion to remand this cause to the Court of Chancery of New Jersey, that all further and other proceedings herein should be had and finally determined in this court, including all questions as to the amount of percentage and royalty, if any, due the complainant from the defendants, and especially as to what articles (except those hereinafter mentioned) are or have been manufactured by the defendants under the patents mentioned in complainant's bill, and the amount of percentage and royalty due thereon. And said counsel having agreed upon the following interlocutory decree and order of reference:

It is therefore ordered and decreed that William Pater-
34 son, Esq., be and is hereby appointed as a master and ex-
aminer of this court, by the consent of the counsel of the respective parties, to take a full, true, complete, and accurate account of the number, price, and size of all and each of the following articles, sold by Andrew Albright and Edwin R. Cahoone, under the firm name of the Cahoone Manufacturing Company, and by Samuel E. Tompkins, Andrew Albright, and Edwin R. Cahoone, under the name of Samuel E. Tompkins, Cahoone & Co.:

A. Teas' gig tree; A. Teas' track tree; A. Teas' express tree; A Teas' coupe tree; A. Teas' iron jockey tree; No. 1 tree; No. 101 tree; No. 2 tree; No. 102 tree; No. 1 gig tree, with centennial seat; track tree No. 2; express tree No. 12; No. 3 improved express tree; No. 4 French coupe tree, with centennial seat; No. 4 French coupe tree, with comet seat; gig saddles, with comet seat; gig trees, with comet seat; express tree, with comet seat; Peerless patent gig trees, each size; No. 103 tree; No. 112 tree; coupe tree No. 104; French coupe tree No. 104, with comet seat; No. 3 express tree; Peerless extra long patent back band tree No. 109; track tree No. 109; bridge for express jockey; patent ornamental coupe bridge No. 1; patent ornamental jockey bridge No. 4; patent covered convex jockey tree No. 5; patent covered convex jockey tree No. 6; patent convex iron jockey tree No. 105; patent convex iron jockey tree No. 106; No. 6 iron jockey tree; number of saddles made on above trees, or any of them.

And he is hereby directed to ascertain and report to this court the amount due, if anything, under the agreement marked Ex-
hibit "29" for complainant, to the complainant upon the
35 above articles up to the first day of January, eighteen hun-
dred and eighty, and whether anything was due on the 8th day of May, eighteen hundred and seventy-nine, the date of the filing of the complainant's bill.

And it is further ordered that the said master proceed to make such examination forthwith, and report to this court at an early day.

JNO. T. NIXON, *J.*

We consent to within decree.

KING & WOODRUFF,
Sol'rs for Compl'nt.
A. Q. KEASBEY & SONS,
For Defts.

(Endorsed:) United States Circuit Court, District of New Jersey. Between Andrew Teas, compl't, and Samuel E. Tompkins, et al., def'ts. On bill for accounting. Interlocutory decree and reference. King & Woodruff, compl't's Sol'rs. Filed June 24, 1880. S. D. Oliphant, clerk.

36 United States Circuit Court, District of New Jersey.

Between
ANDREW TEAS, COMPLAINANT,
and
ANDREW ALBRIGHT ET AL., DEFENDANTS. } In Equity. On bill, &c.

Order.

It appearing to the court that the above-stated cause was originally instituted by a bill in equity filed by the complainant in the Court of Chancery of New Jersey; that answers thereto and a replication were duly filed in said court of chancery; that afterwards, during the taking of the complainant's testimony, the cause was removed to this court, by the defendants, upon the ground that the suit was one arising under the laws of the United States, and that, thereupon, the complainant, by his counsel, moved to remand said cause to said court of chancery, denying that it arose under any law of the United States, and insisting that it arose upon a contract which had been violated by the defendants.

And it further appearing by the records of the court that at the time said motion to remand was made, upon the suggestion of the defendants' counsel an agreement was entered into in writing between the solicitors of the respective parties, providing among other things, that all further and other proceedings herein should be had and finally determined in this court, including all questions as to the amount of percentage and royalty, if any, due the complainant, &c.

37 And the parties having proceeded to take their testimony and having closed the same, and the cause having been brought on for final hearing on the first day of June last past, and a motion having been made in behalf of the defendants that the complainant's bill be dismissed because his remedy was at law and not in equity, and the complainant's counsel having thereupon removed their motion to have said cause remanded to the Court of Chancery, and the court having heard counsel for the respective parties upon each of the said motions, and briefs having been afterwards, at the request of the court, furnished to the court in behalf of the respective parties. And the court, having examined the pleadings and briefs, being of the opinion that said suit is not one arising under any of the laws of the United States, but is one over which the United States courts have no jurisdiction, and that it is a suit for an accounting and relief for the settlement of controversies arising under a contract and of which the state

courts have full cognizance. And the court being of the opinion that the question as to whether the suit should have been brought at law or in equity, together with all other questions involved in the case, should be decided in the Court of Chancery of New Jersey, and that this cause should be remanded thereto.

It is on this thirteenth day of September, in the year of our Lord one thousand eight hundred and eighty-two, ordered, adjudged, and decreed that said cause be, and the same is hereby, remanded to the Court of Chancery of New Jersey, with the costs incurred in this court since the removal of the cause to be
38 taxed, including the costs of the testimony taken since such
removal, unless the defendants shall file a stipulation that all of such testimony may be used on the hearing of the cause in the Court of Chancery.

JNO. T. NIXON, *J.*

(Endorsed:) U. S. Circuit Court, District of New Jersey. Between Andrew Teas, complt., and Andrew Albright et al., defts. On bill, &c. Order remanding cause. King & Woodruff, Solrs. Filed Sept. 30, 1882. S. D. Oliphant, clerk.